

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 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 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 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 30 days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 21—Weighing and Measuring Devices**

PROPOSED AMENDMENT

2 CSR 90-21.060 National/-/Type Evaluation Regulation. The director of agriculture is amending the Purpose, section (1), and subsections (3)(A), (3)(D) and (3)(E).

PURPOSE: Due to a restructuring of duties within the National Institute for Standards and Technology (NIST), the responsibility for administering the National Type Evaluation Program has been transferred to the National Conference on Weights and Measures (NCWM). This rule is being amended to change references from NIST to NCWM.

PURPOSE: This rule adopts uniform guidelines established by the [National Institute of Standards and Technology] National Conference on Weights and Measures pertaining to the type evaluation of weighing and measuring devices.

(1) The Division of Weights and Measures shall use the guidelines established by the *[National Institute of Standards and Technology (NIST)] National Conference on Weights and Measures (NCWM)* for examining weighing and measuring devices for type evaluation.

(3) For the purpose of this rule the following definitions shall apply:

(A) National/-/Type Evaluation Program means a program of cooperation *[among]* between the **National Conference on Weights and Measures**, National Institute of Standards and Technology, *[the National Conference on Weights and Measures,]* other federal agencies, the states and the private sector for determining uniform conformance of a type with the relevant provisions of *NIST Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, [NIST Handbook 105-1, Specifications, and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Field Standard Weights (NIST Class F), NIST Handbook 105-2, Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications, and Tolerances for Field Standard Measuring Flasks, or NIST Handbook 105-3, Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications, and Tolerances for Graduated Neck Type Volumetric Field Standards]* and **National Conference on Weights and Measures, Publication 14, National Type Evaluation Program, Administrative Procedures, Technical Policy, Checklists, and Test Procedures;**

(D) Participating laboratory means any state measurement laboratory that has been certified by *[NIST]* NCWM, in accordance with its program for the certification of capability of state measurement laboratories, to conduct a type evaluation under the National/-/Type Evaluation Program;

(E) Certificate of conformance means a document issued by the *[NIST]* NCWM based on testing in participating laboratories and constituting evidence of conformance of a type with the requirements of *NIST Handbooks 44, 105-1, 105-2 or 105-3;* and

AUTHORITY: section 413.065, RSMo [Supp. 1993] 2000. Original rule filed March 29, 1989, effective June 11, 1989. Amended: Filed Dec. 11, 1991, effective April 9, 1992. Amended: Filed April 14, 1994, effective Sept. 30, 1994. Amended: Filed Oct. 24, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Weights and Measures, Roy Humphreys, Director, P.O. Box 630, Jefferson City, MO 65102-0630. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 220-2.018 Prescription Requirements. The board is proposing to amend subsection (1)(A).

PURPOSE: This amendment further clarifies prescription requirements.

(1) In order for a prescription to be valid for purposes of dispensing a medication by a pharmacy, it must conform to all requirements as outlined in sections 338.056 or 338.196, RSMo, and contain the following information:

(A) The prescription date and [assigned prescription number] a unique, readily retrievable identifier;

AUTHORITY: sections 338.095, 338.100, [and] 338.140 [RSMo Supp. 1999], 338.240 and 338.280, RSMo [1994 and] 2000. Original rule filed May 4, 1995, effective Dec. 30, 1995. Amended: Filed March 15, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2000.

PUBLIC COST: The proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: The proposed amendment will not cost private entities more than \$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 State Board of Pharmacy, Kevin Kinkade, Executive Director, P.O. Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 220-2.030 Educational and Licensing Requirements. The board is proposing to amend paragraphs (3)(A)5. and 7., and subsections (6)(I) and (6)(J). The board is also proposing to delete the forms that immediately follow this rule in the *Code of State Regulations*.

PURPOSE: The purpose of this amendment is to enhance the intern training program by increasing the number of hours allowed in a special site, establish a maximum number of hours which can be earned in a consultant pharmacy and allow reciprocity candidates to work as a technician without being registered as a technician during a specific time frame.

(3) Requirements for Practical Experience.

(A) Requirements for Training as a Pharmacy Intern.

1. Every person who desires to gain practical experience in Missouri toward licensure as a pharmacist must apply for a license as an intern pharmacist. An application for licensure shall be made on forms provided by the Missouri Board of Pharmacy and must be accompanied by the appropriate licensure fee.

2. An applicant for licensure as a pharmacy intern shall be currently enrolled in or graduated from a college that is approved

by the Missouri Board of Pharmacy and that applicant may apply for licensure after the completion of thirty (30) hours of college course work in an approved school of pharmacy.

3. The minimum practical experience shall be fifteen hundred (1,500) hours of training to qualify to take the examination for licensure as a pharmacist. Not more than five hundred (500) hours' credit shall be given for experience obtained concurrent with school attendance; provided, the practical experience shall not exceed ten (10) hours in any one (1) week.

4. Credit shall be given during summer vacation and any academic break, the dates to be determined from the college affidavit signed by the dean or registrar. Not more than forty (40) hours' credit per week shall be given for experience obtained not concurrent with school attendance.

5. [A maximum of five hundred (500) hours of the required fifteen hundred (1500) internship hours may be acquired in pharmacy-related programs; provided, these programs have received prior approval of the board.] Practical experience may be gained within non-licensed programs, provided these programs have received prior approval by the board. The board shall approve the number of hours to be awarded to students within an approved non-licensed program on a case-by-case basis. The maximum number of hours that the board may approve for a program shall be set at one thousand (1,000) hours. The board shall make its determination concerning program approval and the number of hours to grant to an approved program through review of an application. The board may request additional information, interview program participants or complete site inspections before a decision on an application is made.

6. A maximum of seven hundred fifty (750) hours may be obtained in a structured externship program which is part of the college curriculum.

7. A maximum of seven hundred fifty (750) hours may be obtained in a Class I: Consultant pharmacy that is licensed by the board of pharmacy.

(6) Licensure Transfer.

(I) No application for licensure transfer will remain valid if the applicant fails to complete the transfer process as outlined in this rule within [one (1) year] six (6) months of receipt of the application by the board. Any failure by the applicant to complete the licensure transfer process will result in a forfeiture of all fees paid to the board.

(J) Any application for licensure transfer which is pending for three (3) months or more and is still a valid application may require an additional review by the board of licensure information from any state in which the applicant holds a license. Any applicant who provides a complete and truthful application to the board, completes the licensure process in less than three (3) months and is successful in passing the Multi-State Jurisprudence Examination on the first attempt, will not be required to register as a technician while working in a licensed pharmacy or acting in any capacity that would require licensure as a pharmacist as defined in section 338.010.1, RSMo. Direct supervision of an applicant by a licensed pharmacist is required at all times when any functions related to section 338.010, RSMo are performed. Any licensure transfer applicant who must subsequently apply for registration as a technician will not be required to provide fingerprints if all fingerprinting requirements have previously been fulfilled within the licensure transfer process.

AUTHORITY: sections 338.020, 338.030, 338.035, 338.040, [RSMo 1994 and] 338.070, [and] 338.140 and 338.280, RSMo [Supp. 1997] 2000. This version of rule filed July 18, 1962, effective July 28, 1962. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Nov. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$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 State Board of Pharmacy, Kevin Kinkade, Executive Director, P.O. Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 220-2.080 Electronic Data Processing. The board is proposing to amend subsection (2)(A) and sections (3) and (5), delete section (6), renumber the remaining sections accordingly and amend the newly numbered section (7).

PURPOSE: This amendment further clarifies record keeping requirements and prescription identifiers.

(2) Any EDP system used by any pharmacy for record keeping shall comply with the requirements of section 338.100, RSMo, including the capability to store and retrieve the following information concerning the filling or refilling of any prescription:

(A) *[Original prescription number and, if utilized, a prescription hard copy number may be assigned that is different from the assigned original prescription number]* **A prescription label number that is linked to the unique readily retrievable identifier;**

(3) Prescription hard copies must be filed by either the prescription label number or by the *[hard copy number]* **unique readily retrievable identifier.** Prescription hard copies must be retrievable at the time of inspection.

(5) Any pharmacy using an EDP system as described in section (1) shall maintain *[one (1) of]* the following:

(A) A bound logbook or separate file in which each pharmacist involved in the pharmacy's record keeping system shall sign a statement each day attesting that information concerning the refill of prescriptions has been entered into the system for that day and that the pharmacist has reviewed the information for accuracy. The logbook or file shall be maintained at the pharmacy for at least five (5) years after the date the drugs, medicines or poisons are dispensed; *or*.

[(B) A printout of each day's prescription information. This printout shall be verified and signed by the dispensing pharmacist in the same manner as signing any other legal document. The pharmacist shall verify that the information set forth on the printout is correct. The report shall be maintained by the pharmacy for five (5) years from the date of the prescription activity that it represents and shall be stored in chronological order. The information on the printout shall include, at a minimum, the following:

1. *Original prescription number;*
2. *Patient's name;*
3. *Name of drug, medicine or poison dispensed;*
4. *Quantity of drug, medicine or poison dispensed;*
5. *Dosage form, if applicable;*

6. *Prescriber's name and DEA number; provided, that this information may be handled through an on-line retrieval where required for controlled substances; and*

7. *Dispensing pharmacist's code or initials for each prescription. If a code is used, the definition for that code must be available.]*

[(6) Any pharmacy opting for the system described in subsection (4)(B) shall have the printout required in its possession within three (3) working days after each day's activities.]

[(7)] (6) Any hospital pharmacy using an EDP system, as described in section (1), for outpatient prescriptions, employee prescriptions and take-home prescriptions shall conform to all sections of this rule.

[(8)] (7) Any EDP system, as described in section (1), must be capable of producing the record required in subsections (2)(A)–(M) [within three (3) working days.] and said records shall be readily retrievable. Readily retrievable is defined as providing EDP records within two (2) hours of time of request by an inspector or by making a computer terminal available to the inspector for immediate use.

[(9)] (8) An auxiliary record keeping system shall be established for the documentation of refills if the EDP system is inoperative for any reason. The auxiliary system shall insure that all refills are authorized by the original prescription or prescriber. When this EDP system is restored to operation, the information regarding prescriptions filled and refilled during the inoperative period shall be entered into the EDP system within seven (7) working days. However, nothing in this section shall preclude the pharmacist from using his/her professional judgment for the benefit of a patient's health and safety.

[(10)] (9) If a prescription is transferred to or from a pharmacy using an EDP system, the information required in 4 CSR 220-2.120(2)(A)1. must be made a part of the hard copy prescription as noted. If a prescription is transferred from a pharmacy using an EDP system, a notation or deactivation must be made on the transferred record to preclude any further dispensing. If the same prescription is transferred back into the original pharmacy, it shall be treated as a new record, showing the original date written and expiration date.

[(11)] (10) Prior to or simultaneously with the purging of any EDP system, the pharmacist-in-charge or permit holder shall make certain that a record of all prescription activity being erased exists in readable form, either on paper, microfiche or electronic media storage. A pharmacy that desires to discard hard copy prescriptions that are more than three (3) years old must maintain all prescription information on microfiche or electronic media. Any process utilizing microfiche must ensure that all data is available and in readable form. Any pharmacy opting for the utilization of microfiche records must also maintain a microfiche reader so that records may be reviewed on-site by pharmacy personnel or board inspectors. Electronic media storage is defined as any medium such as a computer, floppy disk or diskette, compact disc (CD) or other electronic device that can reproduce all prescription information as required by section 338.100, RSMo and this rule and is retrievable within the time frame defined in [(8)] section (7) of this rule.

[(12)] (11) If coded information exists in the electronic EDP, the board inspector may request the definitions of the codes from the pharmacist on duty for immediate review.

[(13)] (12) The EDP system shall be able to provide a listing of drug utilization for any drug for a minimum of the preceding twelve (12)-month period. Drug utilization information shall be available by specific drug product, patient name or practitioner. If requested to do so, the pharmacy shall have three (3) working days to provide the report.

[(14)] (13) The provisions of this rule shall not conflict with any federal laws or regulations. If any part of this rule is declared invalid by a court of law, that declaration shall not affect the other parts of the rule.

AUTHORITY: sections 338.100, 338.140, *RSMo Supp. 1999* and 338.280, *RSMo [1994] 2000*. Original rule filed March 8, 1984, effective Aug. 11, 1984. Amended: Filed Nov. 4, 1985, effective Feb. 24, 1986. Rescinded and readopted: Filed Dec. 5, 1988, effective March 11, 1989. Amended: Filed March 15, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$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 State Board of Pharmacy, Kevin Kinkade, Executive Director, P.O. Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 220-2.090 Pharmacist-in-Charge. The board is proposing to add new language in subsection (2)(EE).

PURPOSE: This amendment defines additional pharmacist-in-charge responsibilities regarding automated dispensing and storage systems.

(2) The responsibilities of a pharmacist-in-charge, at a minimum, will include:

(CC) Maintain written standards setting out the responsibilities of registered pharmacy technicians as well as the procedures and policies for supervision of registered pharmacy technicians, as required by 4 CSR 220-2.700(1). Said standards shall be available to the board and its designated personnel for inspection and/or approvals; *[and]*

(DD) Any person other than a pharmacist or permit holder who has independent access to legend drug stock on a routine basis in a pharmacy shall be required to register with the board as a pharmacy technician. The determination of whether or not an individual must register as a pharmacy technician will be the responsibility of the pharmacist-in-charge./.; **and**

(EE) Maintain compliance of licensed automated dispensing and storage systems with applicable state and federal laws.

AUTHORITY: sections 338.140, *[RSMo Supp. 1998 and] 338.240 and 338.280, RSMo [1994] 2000*. Emergency rule filed April 12, 1984, effective April 22, 1984, expired Aug. 20, 1984. Original rule filed April 12, 1984, effective Aug. 11, 1984. Amended: Filed Feb. 25, 1986, effective Aug. 11, 1986. Amended:

Filed Jan. 27, 1995, effective Sept. 30, 1995. Amended: Filed Aug. 21, 1998, effective Feb. 28, 1999. Amended: Filed Dec. 30, 1998, effective June 30, 1999. Amended: Filed Nov. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$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 State Board of Pharmacy, Kevin Kinkade, Executive Director, P.O. Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED RESCISSION

4 CSR 220-2.300 Record Confidentiality and Disclosure. This rule established guidelines for the confidentiality and disclosure of records related to patient care.

PURPOSE: This rule is being rescinded and readopted to more clearly establish guidelines for the confidentiality and disclosure of records related to patient care.

AUTHORITY: sections 338.100, 338.140 and 338.280, *RSMo 1994*. Original rule filed May 4, 1995, effective Dec. 30, 1995. Rescinded: Filed Nov. 1, 2000.

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

PRIVATE COST: This proposed rescission will not cost private entities more than \$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 State Board of Pharmacy, Kevin Kinkade, Executive Director, P.O. Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED RULE

4 CSR 220-2.300 Record Confidentiality and Disclosure

PURPOSE: This rule establishes guidelines for the confidentiality and disclosure of records related to patient care.

(1) Patient identifiable information maintained by a pharmacy is confidential. Patient identifiable information refers to any patient-specific health care information received or maintained by a pharmacist or pharmacy, including but not limited to, information obtained from a health care provider, medical insurance plan, health oversight agency, or other similar entity. The pharmacy

permit holder and pharmacist-in-charge shall maintain adequate security preventing the unauthorized release or disclosure of such information.

- (2) Confidential records shall be released upon request to:
- (A) The patient or the patient's legal representative;
 - (B) The prescriber of the prescription order or a licensed health professional acting within the scope of an existing and valid health care professional-patient relationship;
 - (C) Government agencies or other persons authorized by law to receive such information;
 - (D) Any pharmacist or pharmacist technician participating in the transfer of medical or prescription information as provided by law;
 - (E) Any person authorized in writing by the patient.
- (3) Disclosure of patient identifiable information made pursuant to a valid court order, subpoena or other lawfully mandated disclosure shall not be deemed to violate this rule.
- (4) This rule does not change or otherwise alter the authority of the board, its inspectors or other authorized designees to review, inspect or take possession of any such records.

AUTHORITY: sections 338.100, 338.140 and 338.280, RSMo 2000. Rescinded and readopted: Filed Nov. 1, 2000.

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

PRIVATE COST: This proposed rule will not cost private entities more than \$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 State Board of Pharmacy, Kevin Kinkade, Executive Director, P.O. Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED RULE

4 CSR 220-2.900 Automated Dispensing and Storage Systems

PURPOSE: This rule establishes guidelines for the use of automated dispensing and storage systems.

- (1) Automated dispensing and storage systems (hereafter referred to as automated system or system) are hereby defined to include, but are not limited to, mechanical systems that perform operations or activities, relative to the storage, packaging or dispensing of medications, and which collect, control, and maintain all transaction information. Such systems may be used in pharmacies and where a pharmacy permit exists, for maintaining patient care unit medication inventories or for a patient profile dispensing system, provided the utilization of such devices is under the supervision of a pharmacist.
- (A) Documentation shall be maintained by the owner/operator of an automated system for the type of equipment, locations where all systems are located, identification of all persons accessing the automated system, the identity of persons stocking or restocking the system and the pharmacist responsible for checking the accuracy of medications stocked.

(B) Pharmacy permits shall not be required within locations maintaining automated systems when such systems are restricted to:

1. Use as an after-hours cabinet for medication dispensing in the absence of a pharmacist and the quantities obtained are restricted to the amount necessary for patient care until a pharmacist is on duty. A pharmacist shall check such orders promptly once on duty;
 2. The automated system is being used in place of an emergency kit as defined by law;
 3. The automated system is used for limited floor stock purposes as defined by law.
- (C) Automated systems shall be used only in settings that ensure medication orders are reviewed by a pharmacist in accordance with established policies and procedures and laws governing the practice of pharmacy.

(D) Automated systems shall maintain adequate security systems and procedures to prevent unauthorized access or use and shall at all times maintain compliance with all state and federal drug laws including all controlled substance requirements and patient confidentiality laws.

(E) Restocking of automated systems shall be done by registered technicians under the supervision of a pharmacist or by a pharmacist.

(F) All events involving access to the contents of the automated system must be recorded electronically.

(G) No medication or device shall be returned directly to the system for reissue or reuse by a person not licensed or registered by the board of pharmacy.

(H) Quality assurance documentation for the use and performance of the automated systems shall be maintained for a minimum period of two (2) years and shall include at a minimum the following:

1. Wrong medications removed from the system and administered to patients;
2. Breach of security of the automated system;
3. Failure of the system to operate correctly along with the frequency of any failures and the necessary repairs completed;
4. Tests completed to measure the effectiveness and accuracy of the system.

(2) Each licensed automated system pharmacy shall maintain a manual of policies and procedures that, at a minimum, shall include the following:

(A) System operations that include specific and measurable accountability for safety, security, accuracy, patient confidentiality, access, data retention and retrieval, downtime procedures, emergency or first dose procedures, inspection of systems by pharmacy personnel, installation requirements, maintenance, medication security, quality assurance, inventory control, staff education and training and system setup and malfunction.

(B) Documentation by the automated system for on-site patient administration of medications that includes specific identification of patients, medications used along with dates and times the system is utilized.

(C) Effective procedures for securing and accounting for wasted medications or discarded medications.

(D) Complete list of medications and devices stored in an automated system as well as a list of any medications qualifying for emergency or first dose removal without pharmacist prior review of the prescription or medication order.

(E) Access to and limits on access (security levels) to the automated system must be defined and must comply with applicable state and federal laws and regulations.

(3) The pharmacist-in-charge is responsible for the overall compliance of the licensed automated system pharmacy in the same manner as other pharmacy operations as outlined in 4 CSR 220-2.090.

In addition, responsibilities will also include:

(A) Establishment of a quality assurance program prior to implementation of an automated system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of the automated system, which is evidenced by written policies and procedures developed by the pharmacy;

(B) Assign, discontinue or change access to the automated system;

(C) Assure that the automated system is in good working order and accurately provides the correct strength, dosage form and quantity of a drug prescribed while maintaining appropriate record keeping and security safeguards.

(D) Procedures used for notifying the board on a timely basis and other state and federal agencies, when warranted, of any breach of security which results in the unauthorized removal of drugs.

(4) Except where otherwise noted in this rule, all records specified must be retained as a part of the dispensing record of the pharmacy and in accordance with section 338.100, RSMo and board regulations governing the proper maintenance and retrieval of records.

AUTHORITY: sections 338.210 and 338.280, RSMo 2000. Original rule filed Nov. 1, 2000.

PUBLIC COST: This proposed rule is estimated to cost public entities an estimated \$1,375 annually for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed rule will not private entities more than \$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 State Board of Pharmacy, Kevin Kinkade, Executive Director, P.O. Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE PUBLIC ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 220 – State Board of Pharmacy

Chapter: 2 - General Rules

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 220-2.900 Automated Dispensing and Storage Systems

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
State Board of Pharmacy (Annual Inspections)	\$1,375.00

**Total Annual Cost for the
Life of the Rule** \$1,375.00

III. WORKSHEET

Inspector's Salary - \$27.50/per hour

IV. ASSUMPTIONS

1. The board estimates that approximately fifty (50) pharmacies will utilize an automated dispensing and storage system annually.
2. The board anticipates that an annual inspection will be required to assure compliance with the requirements of this rule. The board estimates that the required inspection will take one (1) hour to complete. The average salary of the board's inspector's is \$27.50 per hour. Therefore, the board estimates this proposed rule will cost public entities \$1,375.00 annually. These annual costs will recur each year for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 5—Drug Distributor**

PROPOSED AMENDMENT

4 CSR 220-5.020 Drug Distributor Licensing Requirements.
The board is proposing to amend paragraph (1)(B)1.

PURPOSE: The board is proposing to amend paragraph (1)(B)1., to increase the percentage of sales from 1% to 5%, thus exempting some entities from licensure as a drug distributor.

(1) As defined in section 338.315, RSMo, pharmacies and all individuals employed by pharmacies shall purchase or receive legend drugs only from a licensed or registered drug distributor or licensed pharmacy. For purposes of this rule, the term drug distributor is used to define anyone engaged in an activity as defined in section 338.330, RSMo. Drug distributors as defined in 338.330, RSMo, shall only purchase or receive legend drugs and drug-related devices from a licensed or registered drug distributor or licensed pharmacy.

(B) A wholesale drug distributor does not include:

1. The sale, purchase or trade of a drug or an offer to sell, purchase or trade a drug for emergency medical reasons. For purposes of this section, emergency medical reasons includes transfers of prescription drugs by a licensed pharmacy to anyone other than a licensed pharmacy that constitutes *[one percent (1%)] five percent (5%)* or less of total gross sales of the pharmacy; and

2. The sale, purchase or trade of blood and blood components intended for transfusion and any other exemptions as provided for in Chapter 338, RSMo.

AUTHORITY: sections 338.330, 338.333, 338.335, [and] 338.337, 338.340 [RSMo 1994] and 338.350, RSMo [Supp. 1999] 2000. Original rule filed Feb. 4, 1991, effective June 10, 1991. Amended: Filed April 28, 1992, effective Feb. 26, 1993. Amended: Filed Jan. 27, 1995, effective Sept. 30, 1995. Amended: Filed March 15, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$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 State Board of Pharmacy, Kevin Kinkade, Executive Director, P.O. Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 5—Drug Distributor**

PROPOSED AMENDMENT

4 CSR 220-5.030 Definitions and Standards for Drug Wholesale and Pharmacy Distributors. The board is proposing to amend subsections (3)(H) and (3)(J) and paragraph (3)(M)4.

PURPOSE: The board is proposing to amend subsections (3)(H) and (3)(J) and paragraph (3)(M)4. to increase the time period for

retention of records from two (2) years to three (3) years. This proposed amendment has been reviewed by the Drug Distributor Advisory Committee, as required by section 338.140.4, RSMo, and has been mandated by the federal authority through revisions to 21 CFR part 205.3, effective December 4, 2000.

(3) Minimum standards of practice for drug distributors shall include the following:

(H) Drugs held for wholesale distribution must be stored in a secure area where only authorized personnel have access to them. Sufficient locking mechanisms must be in place and a list of personnel who possess keys or passes which allow them to have independent access to any part of a facility which stores drugs held for later distribution or where any controlled substances are stored must be maintained. Records on all past employees who have had access to drug storage or processing areas must be maintained for a period of *[two (2)] three (3)* years;

(J) Inventories and records shall be made available for inspection and photocopying by authorized federal, state or local law enforcement agency officials for a period of *[two (2)] three (3)* years following disposition of the drugs;

(M) Wholesale drug and pharmacy distributors shall establish, maintain and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory and distribution of prescription drugs, including policies and procedures for identifying, recording and reporting losses or thefts and for correcting all errors and inaccuracies in inventories. Drug distributors shall include in their written policies and procedures the following:

1. A procedure where the oldest approved stock of a prescription drug product is distributed first. The procedure may permit deviation from this requirement if the deviation is temporary and appropriate;

2. A procedure to be followed for handling recalls and withdrawals of prescription drugs. This procedure shall be adequate to deal with recalls and withdrawals due to any—

A. Action initiated at the request of the FDA or other federal, state, or local law enforcement or other government agency, including the Board of Pharmacy;

B. Voluntary action by the manufacturer to remove defective or potentially defective drugs from the market; or

C. Action undertaken to promote public health and safety by replacing existing merchandise with an improved product or new package design;

3. A procedure to ensure that drug distributors prepare for, protect against and handle any crisis that affects the security or operation of any facility in the event of strike, fire, flood or other natural disaster, or other situations of local, state or national emergency; and

4. A procedure to ensure that any outdated prescription drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription drugs. This documentation shall be maintained for *[two (2)] three (3)* years after disposition of the outdated drugs; and

AUTHORITY: sections 338.343[, RSMo 1994] and 338.350, RSMo [Supp. 1999] 2000. Original rule filed Feb. 4, 1991, effective June 10, 1991. Amended: Filed Jan. 27, 1995, effective Sept. 30, 1995. Amended: Filed April 17, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$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 State Board of Pharmacy, Kevin Kinkade, Executive Director, P.O. Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

PROPOSED AMENDMENT

6 CSR 10-2.030 Eligibility to Participate in the Missouri Student Loan Program. The Commissioner of Higher Education proposes to amend the *Common Manual, Unified Student Loan Policy*, which establishes policies for the implementation and operation of the Missouri Student Loan Program for borrowers, schools, lenders, and third-party servicers, by replacing incorporated by reference materials and ensuring the proper incorporation by reference statement appears in the rule.

PURPOSE: The Common Manual, Unified Student Loan Policy is produced collectively by the Missouri Student Loan Program and all other guaranty agencies that administer this federal program. This amendment reflects revisions to that manual which was changed to incorporate new guarantor policies and federal regulatory changes as well as ensure the inclusion of appropriate statements concerning incorporation by reference.

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

(4) This rule incorporates by reference the full text of the material titled *Common Manual, Unified Student Loan Policy* in order to ensure consistent administrative processes for all guaranteed student loan programs and enhance default prevention procedures.

AUTHORITY: sections 173.095, 173.100, 173.105, 173.110, 173.115 and 173.120–173.186, RSMo [1994] 2000. Original rule filed June 8, 1979, effective Nov. 11, 1979. Rescinded and readopted: Filed Oct. 11, 1983, effective Jan. 13, 1984. Amended: Filed Oct. 1, 1985, effective Jan. 12, 1986. Amended: Filed July 1, 1988, effective Oct. 1, 1988. Amended: Filed Dec. 13, 1991, effective April 9, 1992. Rescinded and readopted: Filed Nov. 26, 1996, effective June 30, 1997. Amended: Filed Oct. 27, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Higher Education, Commissioner of Higher Education, 3515 Amazonas Drive, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 5—Regulation of Proprietary Schools**

PROPOSED RESCISSION

6 CSR 10-5.010 Rules for Certification of Proprietary Schools. This rule set forth the existing standards and procedures for certification of postsecondary schools to operate pursuant to sections 173.600 through 173.619, RSMo. A new rule has been proposed to replace this rule, reflecting new standards and procedures.

PURPOSE: This rule is proposed to be rescinded due to the adoption by the Coordinating Board for Higher Education of new and updated standards and procedures for certification of schools to operate. Revision and reorganization of the existing rules for certification of proprietary schools are so extensive that the proposed changes to the rule are best accomplished by a rescission of the existing rule and the promulgation of an entirely new rule in its place.

AUTHORITY: sections 173.600–173.618, RSMo Supp. 1991. Original rule filed March 13, 1985, effective July 1, 1985. Rescinded and readopted: Filed Oct. 16, 1991, effective Feb. 6, 1992. Rescinded: Filed Oct. 27, 2000.

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

PRIVATE COST: This proposed rescission will not cost private entities more than \$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 Department of Higher Education, Commissioner of Higher Education, 3515 Amazonas Drive, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 5—Regulation of Proprietary Schools**

PROPOSED RULE

6 CSR 10-5.010 Rules for Certification of Proprietary Schools.

PURPOSE: This rule sets forth the standards and procedures through which all schools covered by the statutory authority, sections 173.600 through 173.619, RSMo, may be certified to operate consistent with a public policy ensuring the legitimacy of the purpose and programs of the schools, that the schools operate as represented and that students enrolling in the schools have financial and educational safeguards as provided in the rule.

(1) Definitions. Definitions are consistent with those set forth in the statutory authorization.

(A) “Academic progress” or “satisfactory academic progress” means the policy and procedures for periodically evaluating, measuring, and recording the extent to which each student is meeting stated course or program requirements and objectives, and includes any consequences of failure to do so.

(B) “Accredited school” means a school that holds accredited status from a national or regional accrediting agency or association recognized by the United States Department of Education as a reliable authority concerning the quality of education or training provided by institutions of higher education.

(C) "Advertising" means any printed, published, recorded, broadcast, electronically transmitted, or publicly presented information that markets or describes the school for any purpose.

(D) "Agent" means any employee, solicitor, or other person who, for remuneration, by any means and at a place away from the school premises or site of instruction, enrolls or attempts to enroll a resident of this state in a course or courses of instruction or study offered or maintained by a proprietary school, wherever located, or otherwise holds himself/herself out to a resident of this state as representing a proprietary school for such purposes.

(E) "Board" or "Coordinating Board" means the Coordinating Board for Higher Education created by section 173.005(2), RSMo.

(F) "Branch campus" or "branch" means a geographically separate and permanent instructional facility, that is derived from and controlled by its main campus. A branch campus may provide complete and distinct programs and employ unique or shared instructional and administrative personnel. A branch may produce and maintain its own institutional and student records.

(G) "Certificate" means any award, including a diploma, that does not have a degree designation.

(H) "Certificate of approval" means approval by the Coordinating Board to operate a school in compliance with this rule and the provisions of sections 173.600 through 173.619, RSMo.

(I) "Certified" or "approved" means having been granted a certificate of approval by the Coordinating Board, pursuant to section 173.604, RSMo.

(J) "Contact hour" or "clock hour" means a minimum of fifty (50) minutes of instruction or training that is directed and supervised by an instructor or trainer.

(K) "Course" means a defined and unique educational offering with discrete objectives and requirements in support of a program, whether conducted in person, by mail, or through any telecommunication medium.

(L) "Credit hour" means the unit of quantitative measurement of educational attainment earned in a course, generally stated in semester, trimester, or quarter hours. The basis of measuring a credit hour shall be defined in accordance with the standards of a school's accreditor or, in the absence of accreditation, defined to be consistent with the definition of such generally employed at institutions of American higher education, as determined by the department.

(M) "Degree" means any award, earned or honorary, conferred with the designation of associate, baccalaureate, master, professional or professional development, specialist, or doctorate.

(N) "Department" means the Department of Higher Education created by section 173.005(1), RSMo.

(O) "Exempt" means having been determined to be a school or instructional program eligible for release from the provisions of sections 173.600 to 173.619, RSMo, pursuant to section 173.616, RSMo.

(P) "Extension site" or "extension" means any geographically separate and either temporary or permanent instructional facility located within reasonable geographic proximity to a main or branch campus, that is entirely auxiliary to and operated by a main or branch campus. An extension site shall not provide distinct programs, employ significant administrative personnel, or maintain its own institutional or student records.

(Q) "Grievance policy" means the internal procedures through which a student may formally make a complaint regarding actions of a school and a school may make its response to such a complaint.

(R) "Main campus" means the primary instructional facility of a school, as so designated by the school. For accredited schools, the main campus is the one to which accreditation is directly conferred and from which other campus locations derive their accreditation.

(S) "Operate" means to establish, keep, or maintain any facility at a location or locations in this state where, from, or through which education is offered or given and shall include contracting with any person, group or entity to perform any such act.

(T) "Person" means any individual, corporation, partnership, association, or business entity of any kind or description.

(U) "Physical presence" means any person or location within the state of Missouri where, from, or through which a school operates for the purpose of conducting an activity relating to postsecondary education, including the granting of certificates or degrees, or for the purpose of recruiting students. Location is defined to include any address, physical site, electronic device, or telephone number within or originating from within the boundaries of the state of Missouri. Physical presence shall also mean a formally scheduled instructional interaction organized by or through a school taking place between two or more students and/or instructors within the state of Missouri.

(V) "Program" or "program of instruction" means a complete academic or vocational educational offering which fulfills the requirements for the awarding of a certificate or degree. A program may consist of one or multiple courses, and shall, upon satisfactory completion, fulfill an academic, occupational, or other training objective.

(W) "Proprietary school" or "school" means any person not specifically exempted in the authorizing statute which offers or maintains on either a profit or not-for-profit basis within the state of Missouri a course or courses of instruction or study through classroom instruction or correspondence, or which grants certificates or earned or honorary degrees.

(X) "Public institution" means a postsecondary educational institution established by provisions of Missouri constitutional or statutory law or established by the voters of the district in which it is located, which is funded fifty percent (50%) or more of its operating costs from public funds; which is governed by a body appointed by the Governor and approved by the Senate, or selected by the voters of the district in which it is located and which operates on a not-for-profit basis.

(Y) "Religious degree" or "religious program" means any degree or program with a specific theological, biblical, divinity, or other religious designation. Religious degrees or programs shall not include those with a designation that generally denotes a secular degree, including, but not limited to, associate, baccalaureate, master or doctor of arts, science, humanities, philosophy, law, business, education, medicine, and other designations of non-religious disciplines.

(Z) "Transcript" or "transcript record" means a student's permanent educational record.

(2) Jurisdiction.

(A) This rule is applicable to all proprietary schools requiring a certificate of approval to operate under the provisions of sections 173.600 through 173.619, RSMo or any person requiring an exemption from the provisions of sections 173.600 through 173.619, RSMo by the Coordinating Board under section 173.616.2, RSMo. Any person establishing a physical presence in Missouri to operate a school, to instruct students, or to recruit students is subject to this rule. The Coordinating Board shall also deem the act of a school to grant degrees or certificates as establishing that such school engages in education and instruction and is required to obtain a certificate of approval or exempt status.

(B) After receiving a certificate of approval to operate, the school shall:

1. Operate in compliance with the standards and procedures established in this rule; and

2. Maintain institutional and student data and information, as stipulated in this rule, and make such records available for department examination.

(C) No proposed new school may operate without the issuance of a certificate of approval to operate. Certificates of approval shall be issued or denied on the basis of required estimates, assurances, or verifications of planned operations as provided in the application. Evidence that a new school is willfully failing to implement the estimates, assurances, or verifications shall be deemed grounds to revoke or suspend the certificate of approval to operate or to place the school on probation. After initial certification, application for renewal of the certificate of approval shall be on the same basis as for existing schools.

(D) Without either holding a certificate of approval to operate or being exempted from certification, any school or any agent acting in such school's behalf is prohibited from:

1. Entering into any signed contract or agreement for enrollment in any course or program of instruction between the school or any agent acting in behalf of the school and any potential or prospective student;
2. Receiving any financial payment or promise of payment from any potential or prospective student;
3. Announcing, advertising, or otherwise conveying the beginning of classes or instruction or any date for the opening of the school, or otherwise soliciting students for enrollment;
4. Commencing any instructional activity;
5. Making any claim or reference to having an approved, certified, or pending applicant status with the Coordinating Board or Department of Higher Education or the state of Missouri; and/or
6. Giving, awarding, or granting any certificates or degrees as defined in the authorizing statute or this rule.

(E) No school shall advertise or purport to be a Missouri school or to have a Missouri presence, or use a Missouri address on its letterhead or other publications, unless that school actually operates in this state and is either duly exempted from or certified under the provisions of this rule.

(F) Failure to maintain compliance with standards, procedures, or records maintenance and availability requirements shall be grounds for the revocation or suspension of a certificate of approval to operate or for placing a school on probation.

(3) Exemption.

(A) Schools That Shall Be Exempt by Statute. The following schools, training programs, and courses of instruction shall be exempt from the provisions of sections 173.600 to 173.619, RSMo and formal application for that exemption is waived:

1. A public institution;
2. Any college or university represented directly or indirectly on the advisory committee of the Coordinating Board for Higher Education as provided in subsection 3 of section 173.005, RSMo;
3. An institution that is certified by the board as an "approved private institution" under subdivision (2) of section 173.205, RSMo; and
4. A not-for-profit religious school that is accredited by the American Association of Bible Colleges, the Association of Theological Schools in the United States and Canada, or a regional accrediting association, such as the North Central Association, that is recognized by the Council on Postsecondary Accreditation and the United States Department of Education.

(B) Schools That Shall Be Exempted by the Coordinating Board. Upon application, on forms provided by the department and documentation of eligibility, as provided in this rule, the Coordinating Board shall exempt schools, training programs and courses of instruction from the provisions of sections 173.600 through 173.619, RSMo.

1. Once granted, a status of exemption shall be subject to periodic review. As determined by the department, continued eligibility for exemption shall be demonstrated and verified in the application for exemption and is subject to review and further determination by the department at any time. The department may withdraw exemption status for proper cause, such withdrawal con-

stituting a denial of exemption, or require a subsequent application for exemption.

2. Decision on the application for exemption shall be furnished to the school in writing. If exemption is denied, the basis for the denial shall be stated and the notice will be accompanied by forms on which to submit application for certification to operate. Denial of exemption may be appealed to the Administrative Hearing Commission.

3. Schools shall be exempt under the following categories:

A. Religious exemption. A not-for-profit school owned, controlled, and operated by a bona fide religious or denominational organization that offers no programs or degrees and grants no degrees or certificates other than those specifically designated as religious degrees or programs shall be exempted upon satisfactory evidence of:

(I) The identity and bona fide nature of the religious denomination or organization, together with documentation of ownership, control, and operation of the school by the religious denomination or organization; and

(II) The identity and designation of all degrees or certificates offered, including both honorary and earned.

B. Eleemosynary exemption. A not-for-profit school owned, controlled and operated by a bona fide eleemosynary (charitable) organization that provides instruction with no financial charge to its students and at which no part of the instructional cost is defrayed by or through programs of governmental student financial aid, including grants and loans, provided directly to or for individual students shall be exempted upon satisfactory evidence of:

(I) The identity and bona fide nature of the eleemosynary organization; and

(II) The sources of income through which instructional costs are defrayed.

C. Nonvocational exemption. A school that offers instruction only in subject areas that are primarily for avocational or recreational purposes (as distinct from courses that are creditable toward a certificate or degree or that teach employable or marketable knowledge or skills) shall be exempted upon satisfactory evidence that the school does not:

(I) Advertise its instruction as having occupational objectives or as conveying employable or marketable skills or knowledge;

(II) Advertise or maintain placement services or cite placement rates; and

(III) Grant any form of certificate or degree other than a certificate of course completion.

D. Employer exemption. A course of instruction, study, or training program sponsored by an employer for the training and preparation of its own employees shall be exempted upon satisfactory evidence that:

(I) No form of certificate or degree, or credit toward a certificate or degree, is granted other than a certificate of course completion;

(II) The training or instruction is available exclusively to employees of the sponsoring employer;

(III) The training or instruction is provided at no cost to the employee;

(IV) The training or instruction is not the primary activity of the employer; and

(V) If the training or instruction is provided through a second party school or other entity, a contract or agreement between the employer and the other entity shall exhibit that the training or instruction will be provided in compliance with parts (3)(B)3.D.(I)-(IV) of this rule.

E. Professional organization exemption. A course of study or instruction conducted by a trade, business, or professional organization with a closed membership where participation in the course is limited to bona fide members of the trade, business, or

professional organization shall be exempted upon satisfactory evidence that:

(I) No form of certificate or degree, or credit toward a certificate or degree, is granted other than a certificate of course completion;

(II) The organization's membership is limited to bona fide members of the trade, business, or profession;

(III) The training or instruction is available exclusively to bona fide members of the trade, business, or professional organization; and

(IV) If the training or instruction is provided through a second party school or other entity, a contract or agreement between the organization and the other entity shall exhibit that the training or instruction will be provided in compliance with parts (3)(B)3.E.(I)-(III) of this rule.

F. State examination preparation exemption. A course of study or instruction for persons in preparation for an examination given by a state board or commission where the state board or commission approves that course and school shall be exempted upon satisfactory evidence that the state board or commission has approved the course and school.

G. Students primarily under age sixteen (16) exemption. A school or person whose clientele are primarily students aged sixteen (16) or under shall be exempt upon satisfactory evidence that students enrolled are primarily under the age of sixteen (16). Primarily, at a minimum, shall mean seventy-five percent (75%). The Coordinating Board shall exempt, without application, all pre-school, Montessori, and elementary and secondary schools subject to the standards of the Missouri Department of Elementary and Secondary Education. If, however, any private school with clientele primarily under the age of sixteen (16) offers any postsecondary degree or certificate, it shall not be eligible for this exemption.

H. Licensed schools exemption. A school that is otherwise licensed and approved under and pursuant to any other licensing law of this state shall be exempted upon satisfactory evidence that the school has been lawfully licensed or approved by another Missouri state agency. A state certificate of incorporation shall not constitute licensing or approval for the purposes of eligibility for this exemption. A school that offers programs of instruction other than those included within the license or approval of another state agency shall not be eligible for this exemption.

(C) Any school, training program or course of instruction exempted herein may elect by majority action of its governing body or by action of its director to apply for approval of the school, training program, or course of instruction under the provisions of sections 173.600 to 173.619, RSMo. However, any such school, if granted a certificate of approval to operate, shall comply with this rule as though such school were nonexempt. An exempted school, voluntarily seeking and receiving certification, may revert to exempt status upon application for exemption and approval by the Coordinating Board but the board shall not grant exemption if the school is deemed in noncompliance with certification standards at the time of the application and reversion to an exempt status shall not relieve the school of any liability for indemnification or any penalty for noncompliance with certification standards during the period of the school's approved status.

(4) Application for Certificate of Approval to Operate.

(A) Application for certification shall be submitted on application forms furnished by the department and must be submitted on or prior to the expiration date with which the forms are stamped when distributed. Decision on an application for certification shall be made on the basis of:

1. Compliance with the standards set forth in this rule and the authorizing statute;

2. Compliance with the instructions for fully completing and submitting the application forms and exhibits;

3. Information, documentation, or verification submitted or received from any source in supplement to the pending application;

4. Research, information, and other documentation collected by the department or by independent experts or consultants; and

5. Site visitation and/or personal interview as deemed appropriate by the department.

(B) The department may give faith and credit consideration to accreditation by a national or regional accrediting association recognized by the United States Department of Education and to approval by other governmental agencies, including certification or licensing approval by another state. The department may waive any part of the certification procedure for reason of such accreditation or approval.

(C) The department may waive any part of the certification procedure in any instance where such procedure is deemed by the department to be unnecessary or inappropriate for a given school applicant.

(D) The submission of applications should allow adequate lead time prior to the applicant's planned date for starting school operations. The applicant's planned start date shall not normally be a consideration for the time frame for decision on an application. Incomplete or inaccurate applications may be returned to the applicant for resubmission. Failure of the applicant to respond in a timely manner to requests for supplementary information or for resubmission of the application may result in denial of certification to operate.

(E) Annual Recertification.

1. Certificates to operate shall be issued for a maximum of a one (1)-year period and schools must submit application and be certified annually.

2. The annual certification year shall be from July 1 to June 30.

3. Schools initially certified shall be certified from the date of issuance of the certificate of approval to operate to the end of the certification year, June 30.

4. The closing date for the submission of applications for annual recertification shall be the March 15 immediately preceding the beginning of the certification year and, contingent upon a school submitting an acceptable application on or prior to that closing date, a school's certification status shall not lapse in the event a recertification decision is delayed past the expiration of the then current certification year.

5. Failure to submit application by the prescribed closing date shall be grounds, without other considerations, for denial of a certificate of approval to operate for the next certification year.

(F) Temporary Certification. On decision of the department, a certificate of approval issued to an applicant school or to a school applying for recertification may be issued as a temporary certificate of approval. The effective date of a temporary certificate of approval shall not exceed sixty (60) days. In instances other than a temporary certificate of approval issued for reason of a change of school ownership, the reasons for issuance of the temporary certificate of approval shall be specified by the department. At the termination of the temporary certificate of approval:

1. A temporary certificate of approval may be reissued for one additional period not to exceed sixty (60) days; or

2. A certificate of approval for the remainder of the then current certification year may be issued.

(G) Certification Fee. No certificate of approval to operate shall be issued except upon payment of the prescribed certification fee.

1. The certification fee shall be computed on the basis of \$.001 per one dollar of net tuition and fees income (excluding refunds, books, tools, and supplies), with a maximum of two thousand five hundred dollars (\$2,500) and a minimum of two hundred fifty dollars (\$250) per school. Tuition and fees for schools that operate at two (2) or more locations within Missouri may be reported separately or be combined for all locations for purposes of computing the certification fee. The certification fee shall be

computed on the basis of data submitted by the institution, subject to verification by the department.

2. The certification fee for a school upon initial certification to operate shall be computed on the basis of the estimate given in the application of the net tuition income for the first year of operation, except that the fee shall not be less than the minimum of two hundred fifty dollars (\$250). The full initial certification fee shall be assessed whether the initial certification is for an entire or partial certification year.

3. The certification fee requirement for a branch campus operated in Missouri by an out-of-state school shall be computed solely on the basis of applicable tuition and fee income at the Missouri branch campus.

4. For a school having a certificate of approval for the sole purpose of recruiting students in Missouri, the net tuition used for the certification fee computation shall be only that paid, or estimated if initial, to the school by students recruited from Missouri and the fee shall be two hundred fifty dollars (\$250) plus \$.001 per one dollar of net tuition and fees income (excluding refunds, books, tools, and supplies).

(H) Security Deposit. Each proprietary school must file a security deposit with coverage consistent with the statutory requirements of section 173.612, RSMo.

1. The security deposit shall be executed on the prescribed form provided by the department for that purpose. The security deposit shall cover all facilities and locations of the school in the state of Missouri and shall clearly state that it covers the school and agents of the school.

2. Any bonding company must be approved by the Missouri Department of Insurance.

3. The amount of the security deposit shall be ten percent (10%) of the preceding year's gross tuition but, in no event, shall be less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000), except that the school may deposit a greater amount at its own discretion.

4. The school may comply with the security deposit requirement through any of the following three (3) methods, at the discretion of the school: performance surety bond, irrevocable letter of credit, or cash bond secured by certificate of deposit.

5. The amount of the security deposit required must be computed and compliance verified with each annual application for certification. Written verification of compliance with the security deposit requirement of the authorizing statute must be presented prior to the issuance of a certificate of approval. Failure of a school to post and maintain the required security deposit may result in denial, suspension, or revocation of certification to operate or the school being placed on probation.

6. Any school that operates two (2) or more main campuses in the state may combine, or report separately, gross tuition for all locations for the purpose of determining the annual security deposit requirement. However, if the combined gross tuition calculates a security deposit requirement in excess of the twenty-five thousand dollars (\$25,000) maximum, the gross tuition shall be reported separately, and the requirement calculated separately.

7. The security deposit requirement for a branch campus operated in Missouri by an out-of-state school shall be computed solely on the basis of applicable tuition and fee income at the Missouri branch campus.

(5) Certification Standards. The following standards are established as minimum requirements that must be met in order for a school to be issued a certificate of approval to operate in Missouri. As determined by the Coordinating Board for Higher Education, compliance with these standards shall be demonstrated and verified in the application for certification to operate and are subject to review and further determination by the department at any time.

(A) Institutional Standards.

1. The school must have an exact physical location or locations.

2. The school must have an official name. A certificate of approval shall not be issued to a school if the name of that school, whether initially proposed or changed after establishment, is:

A. Identical to the name of an existing certified school or a public or independent college or university in Missouri; or

B. Deemed, by the department, to cause confusion of identity among the lay public.

3. The purpose of the school shall be legitimate and acceptable educationally and shall be supported by the operations and programs of the school.

4. The physical plant and equipment of the school shall be commensurate in size, accommodations, and condition to the purpose and programs of the school.

5. The learning resources of the school, such as educational equipment, computer hardware and software, library holdings, and telecommunications equipment, shall be sufficient to meet the educational objectives of all courses and programs.

6. The school must be in current compliance with all pertinent ordinances and laws relating to the safety, health, and security of the persons on the premises.

7. All media advertising and other informative or promotional materials, including those printed, published, recorded, or presented descriptive of the school shall:

A. Truly and accurately represent the characteristics of the school;

B. Include the name of the school and shall specify either the school mailing address, the telephone number, or both;

C. When referencing Missouri certification status, only refer to itself as being "certified to operate" or "approved to operate" by the "Missouri Coordinating Board for Higher Education" or the "Missouri Department of Higher Education"; and

D. Not be deceptive or misleading. As a minimum, the department shall determine advertising or other materials are deceptive or misleading when:

(I) Advertising or other material states the school, its programs, certificates, or degrees are accredited, certified, or approved by the Coordinating Board for Higher Education, the Department of Higher Education, or by the state of Missouri or any of its agencies;

(II) Employment or want ad sections or services of any newspaper or advertising media are used for purposes of student recruitment;

(III) Advertising or other material states the school is accredited by any organization that is not an accrediting agency officially recognized by the United States Department of Education; or

(IV) Any information in the advertisement cannot be verified or documented by the school.

(B) Program Standards.

1. Program review. The instructional programs of the school must legitimately support the stated purpose of the school and the school must demonstrate that each course of instruction meets its stated objectives, showing that the following are appropriate to the award designation and discipline:

A. The study discipline of a degree program shall be identified and verified to be generally accepted in American higher education as a legitimate area of degree study;

B. The study discipline of a nondegree program shall be identified and verified as legitimate preparation and training for its vocational or academic objective; and

C. Any award granted shall be on the basis of study content and achievement requirements that shall be deemed by the department to be reasonably equivalent to study content and achievement requirements commensurate with the designated level of award, as generally applied at institutions of higher education and/or the vocation for which it prepares.

(I) Study content and achievement requirements must demonstrate satisfaction of this standard through the following:

(a) Level of the program, including its range and scope of courses;

(b) Content of courses, including the type, depth, breadth, and sequence of courses; and

(c) Duration of the program, including minimal instructional length at the school. Except as specifically determined otherwise by the department, minimum instructional length shall be twenty-five percent (25%) of similar programs for non-degree and undergraduate degree programs and seventy-five percent (75%) for graduate and professional degree programs.

(II) Demonstration of such equivalence may be established through accreditation by national or regional accrediting agencies recognized by the United States Department of Education.

D. No earned degree or certificate may be given, awarded, or granted in the absence of an instructional component offered and conducted by the school.

2. Program disclosure. The school shall maintain and provide each student in published or printed form, usually through a dated school catalog, the following information for each program and course of instruction offered. The information also shall be provided to prospective students upon request.

A. An official statement of the school's and each program's objectives.

B. Specific titles and descriptions of program content or competency, including, where appropriate, course descriptions.

C. Explanation of evaluation and completion requirements for each program, including:

(I) Specific grade, credit hour, clock hour, and/or other performance achievements required for satisfactory completion as appropriate to each program;

(II) Appropriate definitions of the measures of progress described in part (5)(B)2.C.(I) of this rule;

(III) Specific methods by which program requirements may be met through study at another institution, for work experience or other equivalency, for testing out, or for credit earned on any basis other than instruction offered by the school;

(IV) Explanation of the system of evaluation to include:
(a) Definitions and application of grading methods;
(b) Policies and procedures for monitoring academic progress, including achievement requirements and pertinent time frame; and

(c) Expectations of consequences for failure to maintain satisfactory academic progress, including probation, suspension, or termination; and

(V) Exact designation of the certificate or degree bestowed upon satisfactory completion of each program.

D. The length of each program and course stated in definable units such as hours, days, weeks, months, and/or terms.

E. Explanation of the instructional method to be employed (classroom, laboratory, independent study, supervised research, supervised internship or externship, etc.) for various stages of the instruction.

F. If applicable, explanation of instructional methods, achievement evaluation, technical requirements, and other policies unique to the delivery of instruction via distance media.

G. As applicable, the schedule of classes, including dates and times of meetings.

3. Earned and honorary awards.

A. No earned certificate or degree may be given, awarded, or granted solely on the basis of payment of tuition or fee, credit earned at another school or schools, on the basis of credit for life experience or other equivalency, on the basis of testing out, on the basis of research and writing, or solely on the basis of any combination of these factors.

B. No honorary degree may be given, awarded, or granted by any school that does not give, award, or grant an earned degree.

C. No fee or other charge may be assessed for giving, awarding, or granting an honorary degree.

(C) Personnel Standards.

1. The school must have a formal governance structure consistent with its form of ownership or corporate identity that is capable of adequately directing, administering, and operating the school and is capable of developing and maintaining its instructional programs.

2. The school must have sufficient administrative, instructional, and support personnel based on its student enrollment and relative needs for educational and support services.

3. Instructional personnel, defined to include those who train or deliver instruction as well as any personnel that measure, assess, or evaluate student achievement, shall minimally meet the following qualifications:

A. A combination of educational and experiential qualifications in excess of the level of instruction on which they are instructing; and

B. Shall have relevant qualifications, training, and experience in the subject or discipline area in which they are instructing.

(D) Financial Standards.

1. The school must have a sound financial structure with sufficient resources for its continued operation, as determined by the department.

2. The school must demonstrate financial stability and responsibility through reasonably prompt satisfaction of operational financial obligations, its capital indebtedness obligations, its personnel payroll, and its student financial refund obligations.

3. The school must have the required financial security deposit, on forms provided by the department, on file pursuant to the provisions of section 173.612.2(3), RSMo.

4. If applicable, the school must administer governmental student financial aid, including both grants and loans, awarded through or by the school, in compliance with all applicable law and regulations.

(E) Student Cost Standards.

1. Cost disclosures. The school must maintain, through a catalog or other printed or published informative material, and make available to students and prospective students, full disclosure of any and all financial charges to the students, including:

A. Tuition;

B. Special fees;

C. A reasonable estimate of required charges for books, equipment, materials, tools, services, and other non-incident educational supplies or charges, whether or not made by the school but required for program completion;

D. Charges for room and board provided by the school;

E. Information on payment policies and procedures; and

F. Information on availability of and procedures to apply for student financial aid, whether available from public and/or private sources.

2. Cancellation policy. The school must provide for a period during which an enrollment or admission agreement may be cancelled by the student with refund of all monies paid.

A. That cancellation period shall not be less than three (3) days, exclusive of Saturday, Sunday, and holidays.

B. The enrollment agreement shall contain a clear statement of the cancellation policy and procedures.

3. Refund policy. The school must have a fair and equitable student tuition refund policy, as determined by the department.

A. The enrollment agreement shall contain a statement of the refund policy and the formula or rules for calculation of refunds due to students withdrawing or whose enrollment is otherwise discontinued.

B. The tuition refund policy must specify fees or other expenses that are nonrefundable beyond the period of cancellation as described in paragraph (5)(E)2. of this rule.

C. The refund policy must specify a maximum time lapse for the refund to be made and any conditions under which there would be no refund.

D. The school must also disclose to the student any conditions under which the refund would be made to a person other than the student.

E. Unless variation is authorized by the department based on program length or cost, fair and equitable shall mean provision of a reasonable refund formula through at least one-half of the enrollment period.

(F) Student Services Standards.

1. The school shall maintain and fairly and equitably enforce the following policies and procedures:

A. Admission procedures and requirements which reasonably assure that the students admitted are capable of achieving and informed concerning the qualifications, competency levels, and/or proficiencies necessary to achieve the stated goals of the instruction offered and which are nondiscriminatory in their application;

B. Conduct, dress, attendance, grievance, and other policies governing students during their enrollment and the expectations of reprimand, punishment, or termination for violation of any policies;

C. A formal policy and procedure for students to withdraw from a program of instruction or the school; and

D. A formal policy and procedure for the issuance of transcript records, including disclosure of any associated fees.

2. The school must provide all students through a catalog or other printed or published informative material, full disclosure of the following. The information also shall be provided to prospective students upon request.

A. Admission requirements and procedures for applying for admission.

B. Information on conduct, dress, attendance, grievance, and other policies governing students during their enrollment and the expectations of reprimand, punishment, or termination for violation of any policies.

C. Accurate description of instructional resources, including: the physical facility, qualification of individual instructional faculty, equipment and, if applicable, library.

D. Statement of any institutional or program accreditation or approval claimed.

E. Statement of the formal policy and procedure for students to withdraw from a program of instruction or the school.

F. Description of job placement assistance, counseling or other related services available to students.

3. Enrollment agreement. The school, through a written enrollment agreement, shall maintain and make available to all students, upon acceptance or enrollment, disclosure of the following:

A. The program in which the student is enrolled;

B. The beginning date of instruction;

C. Length of the period of enrollment, defined to be the time to which a student commits for completion of a course or program;

D. The cost of all charges made by the school during the period of enrollment;

E. Conditions of payment, meaning a description of when payments to the school are due and for what amount, regardless of the sources of funding, and additional fees for alternative payment plans;

F. The cancellation policy maintained in compliance with this rule;

G. The refund policy maintained in compliance with this rule;

H. Signature of the student and the date of signing; and

I. Signature of an authorized school representative and the date of signing.

4. Transcript. The school shall maintain an individual transcript record for each student currently or formerly enrolled at the school. Unless the transcript is destroyed by an act of nature, the institution may not refuse to issue a transcript on a student's written request, except for the reason of student nonpayment of a financial obligation to the school. The transcript shall minimally include the following:

A. Full name of the student;

B. Name and address of the school;

C. Notation of each course attempted or completed, including the term and date of the course, credit or contact hours attempted, credit or contact hours earned, and grade assigned;

D. Exact award conferred, if applicable;

E. Date of award conferral, if applicable;

F. Notation and date of withdrawal, if applicable; and

G. Upon issuance of an official transcript, the name, title, and signature of the school official authorized to issue the transcript and the date of issuance.

(6) Information and Data Standards. Full compliance with all data and information requests and the submission of all data forms and required statements of the Coordinating Board shall be requisite to the issuance of a certificate of approval to operate, notwithstanding that a certificate of approval may be denied, revoked, or suspended on the basis of data and information submitted or for willfully submitting incorrect data. In order to be in compliance with the data and information requirements of the certification process, the school shall maintain, in addition to information disclosures described elsewhere in this rule, the following information, which shall be available for submission to and/or examination by the Department of Higher Education.

(A) Institutional Information and Data.

1. The name of the school, current telephone number, current mailing address, any Internet addresses maintained by or for the school, the school's physical address and date of school establishment.

2. The form of ownership of the school, whether sole proprietorship, partnership, limited partnership or corporation, or non-Missouri public, along with the names, if applicable, of those persons holding a ten percent (10%) or more ownership interest in the school.

3. Verification of the school's accreditation by any national or regional accrediting entity and verification of any licensing or approval by a state or federal governmental agency.

4. Assurances, and documentation, of compliance with all pertinent ordinances and laws relating to the safety, health, and security of persons on the school premises.

5. Sample copies of all media advertising and printed or published materials, including Internet and other electronic publications, descriptive of the institution and employed within the past year.

6. Description of the school's instructional, administrative and support facilities located in Missouri.

7. The peak enrollment and the total student enrollment for the most recently completed calendar, fiscal, school or other year as designated by the department.

(B) Program Information and Data.

1. For each instructional program offered, a program outline containing, at a minimum, the following information:

A. Specific title of the program;

B. The designation of the certificate or degree granted upon completion;

C. The objective academic or vocational educational outcomes for the program;

D. Requirements for admission to the program;

E. Requirements for completion of the program, including the specific courses, grade achievement, and other requirements, described, as applicable, in defined terms of clock hours, credit hours, and/or performance requirements;

F. The length of study, stated in calendar terms such as days, weeks, months, or years, which reasonably describes the expected program length, as well as any provisions for variation from this length and any associated variance in cost;

G. Academic and performance policies for evaluation, grading, satisfactory progress, and attendance for the program;

H. The method of instruction by which the program requirements may be earned, including the specific courses or other required units that may be met by study at another institution, for work experience or other equivalency, for testing out, or for credit earned on any basis other than instruction offered by the school;

I. The teaching methodologies employed by the program, including the specific uses of classroom, laboratory, correspondence, independent study, supervised research, supervised internship or externship, electronic telecommunication, and other methods of instruction;

J. For each distinct course of instruction required or available as a part of the program, the specific course title, objective or competency sought, instructor(s), the number of credit or clock hours awarded upon completion, and a description of the course content; and

K. Individual and aggregate information on student enrollment, completion, and employment.

2. Description of the procedures for implementing policies of evaluation, grading, academic progress, attendance, conduct, and grievance, and records demonstrating the application of these policies.

3. Copies of the current or most recent schedule of courses of instruction.

4. As applicable, a statement as to the policy by which a credit or contact hour is defined for institutional application in determining credit or contact hour values for courses and program completion.

(C) Personnel Information and Data.

1. The names and titles of all administrative and instructional personnel employed by the school and a resume of the education and employment experience for each person so employed.

2. The names, titles, addresses and telephone numbers of the agents of the school, along with the geographic area of the operation of each agent.

3. As applicable, explanatory statements of and documentation for any corporate governance body or structure that directs or administers the school.

(D) Financial Information and Data.

1. Verification of compliance with the security deposit requirement under the authorizing statute and this rule.

2. The fiscal year used for the school's operation.

3. A financial statement showing, in addition to other standard revenue and expenditure categories, gross tuition, fees, and income from other charges made to students for the last completed fiscal year, certified by the school owner or the school's chief administrative officer.

(E) Student Cost Information and Data.

1. Catalog or other printed or published information for disclosure of financial charges to students and records demonstrating the application of that printed or published information.

2. A statement of the refund policy of the school and records of the application of that policy.

3. A statement of the cancellation policy of the school and records of the application of that policy.

(F) Student Services Information and Data.

1. Transcripts of the records of student achievement, including all degrees, certificates, or other awards granted, and evalua-

tion of all students, past and present, enrolled at the school, whether or not completing the program of instruction shall be maintained permanently, and in accordance with record storage requirements in subsections (7)(C) and (7)(D) of this rule.

2. The following student records are to be maintained for a reasonable length of time, minimally three (3) years after a student has graduated, withdrawn, or terminated enrollment, or longer as mandated by federal and/or state policies, procedures or statutes:

A. Records of the application of each student for enrollment and the decision made on that application;

B. Records of the completion of an enrollment agreement by each student as described in paragraph (5)(F)3. of this rule;

C. Records of all financial charges to each student and payments made by or on behalf of the student;

D. Records of all financial aid awarded to or obtained by each student, including governmental grants and loans, and the application of those funds to payment of student charges and/or refunds made to the student or the funding source;

E. Records of all disciplinary actions taken against individual students for their violations of school policies on attendance, conduct, dress, academic progress, and any other policies, as well as records of all associated grievance proceedings, as maintained in compliance with this rule;

F. Records on each student withdrawing from the school demonstrating application of the school's withdrawal policy including a notation of that withdrawal on the student transcript;

G. Records of job placement and employment of those students graduated; and

H. Files of any other student records required by this rule.

(7) Operating Standards.

(A) The certificate of approval issued by the Coordinating Board indicating a school's approval to operate in compliance with sections 173.600 to 173.619, RSMo and the provisions of this rule shall be, at all times during the term of its validity, displayed in a conspicuous place on, and only on, the premises listed on the face of the certificate of approval so that persons visiting the premises may readily see the certificate of approval.

(B) Any school that closes or whose certificate of approval is suspended, revoked, or not renewed shall, on the approval of the department, take one of the following actions:

1. Make partial or full refund of tuition and fees to the students enrolled;

2. Continue operation under a temporary certificate until students enrolled have completed the program for which they are enrolled;

3. Make arrangements for another school or schools to complete the instruction for which the students are enrolled;

4. Employ a combination of these methods in order to fulfill its obligations to the students; or

5. Implement other plans approved by the department.

(C) A school must maintain a location or locations for all student records, including the student transcript, for both current and former students, that can reasonably assure their proper security, protection, and accessibility.

(D) In the event a school terminates its operations, it must file or make arrangements to file all student transcripts and financial account records, in paper and/or electronic form, in an appropriate permanent repository approved by the department within fourteen (14) days of the termination date. Failure to do so shall result in forfeiture of the security deposit as required by section 173.612, RSMo.

(E) Scope of Certificate of Approval.

1. Branch campuses and extension sites of Missouri schools.

A. Application for a certificate of approval to operate shall be made by and through a location designated as the main campus of a school indigenous to Missouri. A certification application shall be made by a main campus on behalf of its branch campuses. The

application shall identify all locations proposed to be operated by the school.

B. All certificates of approval to operate shall specify the instructional locations and program(s) of instruction for which the certificate is valid. In addition to the certificate issued to the main campus, certificates of approval to operate shall be issued only for those locations and programs defined and listed in the annual application for certification as branch campuses.

C. Approval to operate locations as extension sites, as defined and listed in the annual application for certification, shall be extended from the certificate of a main or branch campus.

D. The certification to operate of the main campus or any of its branches or extensions may be denied, revoked, suspended, or placed in a status of probation. Such action may be deemed by the department to apply to all locations under the jurisdiction of that certificate of approval to operate.

2. Franchises of Missouri schools.

A. All locations at which instruction is proposed to be offered by a franchisee of a franchisor approved to operate shall be deemed a location within the scope of such franchisor's approval, provided that the franchisor provides the course curriculum and guidelines for teaching at each location and that a single location is identified as the principal facility for record keeping.

B. Denial, revocation, or suspension of certificates of approval to operate for a franchisor shall be deemed to apply to all franchisee locations. The certification of an individual franchisee (as listed on the franchisor's application for certification) may be denied, revoked, suspended or placed in a status of probation for just cause.

3. Changes in physical location.

A. The department must be notified at least thirty (30) days prior to the effective date of proposed changes in or additions to the location(s) of the school operations.

B. Such changes shall not be effective except on review and authorization by the department.

C. As a condition of authorization for the implementation of changes and additions of location under the school's certificate to operate, accredited schools must provide written documentation of the approval of such changes by the accrediting association.

4. Programmatic additions, discontinuances, and revisions.

A. The department must be notified at least thirty (30) days prior to the effective date of programmatic additions, discontinuances, and revisions (including but not limited to changes in name, length, cost, or objective).

B. Substantive revisions to existing programs of instruction and the initiation of proposed new program offerings must be submitted for review in the format established by the department. The school must demonstrate that revised and additional programs are in compliance with certification standards, as described in paragraph (5)(B)1. of this rule, in order for these programs to be approved for inclusion within the scope of the certificate of approval. Such changes shall not be effective except on authorization by the department.

C. As a condition of authorization for the implementation of programmatic changes under the school's certificate to operate, accredited schools must provide written documentation of the approval of such changes by the accrediting association.

(F) Change of Ownership.

1. A certificate of approval is nontransferable. A change in the sole proprietor of a school, a change in the majority interest of general partners of a partnership owning a school, or a change in a majority stock ownership of a school shall be deemed a transfer of ownership.

2. Within thirty (30) days of such transfer the new owner shall make application for a new certificate of approval on application forms as determined by the department.

3. This application shall be processed like an initial application except the Coordinating Board may issue a temporary certifi-

cate, to be effective for a maximum of sixty (60) days if the chief administrator furnishes a written statement asserting that all conditions set forth in the rule are being met or will be met before offering training or education.

4. Failure to make application to the department, when a change of ownership occurs, shall be grounds for placing a school on probationary status or for suspension, revocation, or denial of a certificate of approval.

(G) Change of School Name.

1. The department must be notified at least thirty (30) days prior to the effective date of proposed changes in the official name of a school. Name changes shall not be effective except on authorization by the department.

2. As a condition of authorization for the implementation of a name change under the school's certificate to operate, accredited schools must provide written documentation of the approval of the change by the accrediting association.

(H) Except as pursuant to the initial approval to operate, a certificate of approval will not be issued to any school that has reported no student enrollments during the previous certification year. A school having a full certification year without student enrollments shall be deemed as not being a school eligible for certification.

(8) Certification of Out-of-State Institutions.

(A) An out-of-state institution is defined as any school not indigenous to Missouri seeking to establish or to maintain a physical presence within Missouri for either the purpose of operating a branch campus of that school or the purpose of recruiting students to enroll in the school.

(B) Out-of-state schools must have continuously operated for a minimum of two (2) years prior to application to operate in Missouri, be licensed or approved by the other state, territory, District of Columbia, or national government and the requirements for approval or licensure in the other state or political entity must be substantially equal, as determined by the department, to those in force in Missouri at the time the application for approval is filed.

(C) The department may give faith and credit consideration to an out-of-state accredited school's accrediting association and to approval by other governmental agencies, including certification or licensing approval by another state. The department may waive any part of the certification procedure for reason of such accreditation or approval.

(D) Operating a Branch Campus.

1. In order to operate in Missouri, an out-of-state institution must comply with the same standards and procedures as are applicable to institutions indigenous to Missouri and must be annually certified as approved to operate.

2. Each branch campus where, from, or through which an out-of-state school operates in Missouri must be independently certified even though those sites are branches of the parent non-Missouri institution. Separate applications must be submitted for each branch campus and all application information must be specifically for that site and not for the non-Missouri parent institution.

3. Each branch campus where, from, or through which an out-of-state school operates in Missouri must designate in the application a resident director in order to be eligible to be certified to operate.

4. Application forms for annual certification and follow-up communications, including the issuance of the certificate, shall be distributed by the department directly to the designated resident director of each branch campus in Missouri. This procedure does not prohibit the director of the Missouri site from forwarding the mailings to the parent institution for processing nor does it prohibit the payment of certification fee and deposit of security by the parent institution; however, the institution must comply with all closing dates and deadlines.

(E) Operating for Recruiting Purposes Only.

1. All non-Missouri schools maintaining a physical presence in Missouri for the purpose of recruiting students to attend the non-Missouri school must be certified to operate. Physical presence, in the context of recruitment operations, shall mean any address, physical location, electronic device, or telephone number within the boundaries of the state of Missouri from which promotional material is distributed or recruitment effort initiated and/or to which potential or prospective students may inquire or respond. Physical presence does not include advertising through printed or electronic media as long as the initiation for that advertising is not within this state or the advertising does not identify any Missouri presence.

2. In order to be certified to operate in Missouri for recruitment purposes, an out-of-state institution must comply with the same standards and procedures as are applicable to a Missouri institution and must annually apply for and receive a certificate of approval.

(9) Probation, Suspension and Revocation of a Certificate of Approval.

(A) Probation. A school may be placed on probation for reasons of noncompliance with sections 173.600 through 173.619, RSMo or for noncompliance with the provisions of this rule. Probation provides a school with the opportunity to attain compliance within a given time limit or to provide evidence or clarification of unclear points regarding compliance with specific items. Probation shall be governed by the following criteria:

1. The Coordinating Board shall place a school on probation by notification in writing for a fixed period with a termination date. Termination dates may be extended on decision of the Coordinating Board if the school has not attained compliance or upon request of the school. The school may continue to operate during any probationary period;

2. The notice shall specify the item or items of noncompliance with sections 173.600 through 173.619, RSMo or this rule and shall include specific criteria and/or procedures for the school to be removed from the probation;

3. Failure of a school to comply with statutory requirements or the requirements of this rule by the termination date of the probation shall, on judgment and decision of the Coordinating Board, result in one of the following actions:

- A. Suspension of the certificate of approval; or
- B. Revocation of the certificate of approval; and

4. A school in compliance with the specified probationary requirements may request, in writing, removal from probationary status prior to the termination date of the probation.

(B) Suspension. A certificate of approval or a temporary certificate of approval may be suspended for up to twelve (12) months for noncompliance with provisions of sections 173.600 through 173.619, RSMo or the provisions of this rule and the following criteria and/or procedures shall apply. The purpose of suspension is to give the school the opportunity to correct the items of noncompliance within a set period of time.

1. The Coordinating Board shall suspend a school's certificate of approval or temporary certificate of approval by notification in writing for a fixed period with a termination date. Termination dates may be extended on decision of the Coordinating Board if the school has not attained compliance or upon request of the school; however in no case shall the total time of suspension exceed twelve (12) months.

2. The notice shall specify the item or items of noncompliance with sections 173.600 through 173.619, RSMo or this rule and shall include specific criteria and/or procedures for the school to be removed from suspension.

3. Failure of a school to comply with statutory requirements or the requirements of this rule by the termination date of the sus-

pension shall, on judgment and decision of the Coordinating Board, result in revocation of the certificate of approval.

4. A school in compliance with the specified suspension requirements may request, in writing, removal from probationary status prior to the termination date of the suspension.

5. The school may appeal an assignment of suspension to the Administrative Hearing Commission.

(C) Revocation. The Coordinating Board may revoke the certificate of approval or the temporary certificate of approval of any school for noncompliance with the provisions of sections 173.600 through 173.619, RSMo. Revocation of a certificate to operate shall be governed by the following criteria and/or procedures.

1. The Coordinating Board shall revoke a school's certificate of approval or temporary certificate of approval by notification in writing.

2. The notice shall specify the item or items of noncompliance with sections 173.600 through 173.619, RSMo and shall specify an effective date of the revocation, revocation upon the completion of operational functions as may be prescribed by the Coordinating Board, or both an effective date and completion of operational functions.

3. Revocation of a certificate of approval shall not forgive a school of full compliance with the requirements contained in this rule which are applicable to any school ceasing operations, including, but not limited to, making refunds to students, completion of instructional programs of students, and the reposit of student instructional and financial records.

4. The school may appeal a revocation to the Administrative Hearing Commission.

AUTHORITY: sections 173.600-173.619, RSMo 2000. Original rule filed March 13, 1985, effective July 1, 1985. Rescinded and readopted: Filed Oct. 16, 1991, effective Feb. 6, 1992. Rescinded and readopted: Filed Oct. 27, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Higher Education, Commissioner of Higher Education, 3515 Amazonas Drive, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 25—Fiscal Management
Chapter 2—Purchase of Service Contracting**

PROPOSED AMENDMENT

9 CSR 25-2.105 Purchasing Client Services. The department proposes to amend section (4) of this rule.

PURPOSE: This amendment will revise the terms for terminating a contract without cause.

(4) The department shall contract with designated affiliated community service providers after negotiating terms, for a period of one (1) year, with option for renewal at the department's discretion. Termination of the contract shall be for any cause defined in the contract or without cause upon [ninety (90)] sixty (60) days' notice.

AUTHORITY: sections 34.100, 630.050 and 630.405, RSMo [1986] 2000. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed May 15, 1990, effective May 25, 1990, expired Sept. 21, 1990. Amended: Filed Aug. 1, 1990, effective Dec. 31, 1990. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to John Long, Contracts Coordinator, Office of Administration, P.O. Box 687, Jefferson City, MO 65102. To be considered comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 25—Fiscal Management
Chapter 2—Purchase of Service Contracting**

PROPOSED AMENDMENT

9 CSR 25-2.305 Solicitation Procedures. The department proposes to amend subsections (2)(A) and (B) of this rule.

PURPOSE: This amendment will revise the dollar limit for requiring the advertisement of a request for proposal.

(2) The department shall post notices of the availability of the RFPs in the purchase of service bureau in the department's central office. The department shall mail or otherwise distribute the RFPs or notices of the availability of the RFPs to all interested providers and recognized competitive bidders in a geographic area to secure comparative evaluation of comparative negotiation between more than one (1) offeror if possible (that is, in some areas only one (1) offeror can be found). Notices of availability shall indicate where, when and for how long the RFPs may be obtained and shall generally describe the services to be purchased.

(A) If a purchase involves the estimated expenditure of more than [ten thousand dollars (\$10,000)] **twenty-five thousand dollars (\$25,000)**, the department shall advertise the notice of availability of the RFP in two (2) newspapers of general circulation. It may also advertise in a newspaper of local circulation in the geographic area where the services are to be provided or in places as are most likely to reach prospective sources.

(B) If a purchase involves the estimated expenditure of [ten thousand dollars (\$10,000)] **twenty-five thousand dollars (\$25,000)** or less, the department may distribute the RFPs without advertising.

AUTHORITY: sections 34.100, 630.050 and 630.405, RSMo [1986] 2000. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to John Long, Contracts Coordinator, Office of Administration, P.O. Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—Parks, Recreation and Historic
Preservation
Chapter 2—State Parks Administration**

PROPOSED RESCISSION

10 CSR 90-2.010 Definitions. This rule defined terms used in this chapter.

PURPOSE: The Department of Natural Resources is proposing to rescind this rule due to the significant changes in the original text; to reflect contemporary definitions; and to extensively reorganize the content.

AUTHORITY: section 253.035, RSMo 1986. This version filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed June 10, 1981, effective Sept. 11, 1981. Amended: Filed March 18, 1987, effective July 23, 1987. Emergency amendment filed April 10, 1987, effective April 20, 1987, expired July 15, 1987. Rescinded: Filed Oct. 26, 2000.

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

PRIVATE COST: This proposed rescission will not cost private entities more than \$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 Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration**

PROPOSED RULE

10 CSR 90-2.010 Definitions

PURPOSE: For the purpose of these rules, the following definitions shall apply.

(1) General Definitions.

(A) Animals.

1. Dangerous animal means an animal, domestic or wild, not under restraint, even temporarily that has, without provocation, approached in a threatening, menacing, or terrorizing manner any person or domestic animal.

2. Quarantine means to keep an animal in a pen, building, or other secure enclosure from which the animal cannot escape and that keeps the animal from coming into contact with humans or other animals outside the area of confinement.

3. Vicious animal means an animal, domestic or wild, which has without provocation bitten, inflicted injury, assaulted,

or otherwise attacked or endangered the safety of a human being or domestic animal.

(B) Designated swim areas are water areas provided for the enjoyment of swimmers, bathers and sunbathers. Designated swim areas include swimming pools, the fenced area surrounding swimming pools, lakes in which an area is marked or enclosed dedicating its use to swimming, bathing or sunbathing, and beaches adjacent to any lake's enclosed swimming area.

(C) Director, as used in these rules, shall refer to the director of the Division of State Parks.

(D) Division, as used in these rules, shall refer to the Division of State Parks.

(E) Facility manager. The person directing the overall management, safety and operation of a state park or historic site. Normally, that person's title will be park superintendent or historic site administrator, but other persons may be assigned in the absence of such personnel.

(F) Nonprofit group is any group that has been incorporated (not-for-profit) in the state of Missouri.

(G) Off-road vehicle (ORV) area is a designated area where ATVs and motorcycles may be operated off of park roads and thoroughfares.

(H) Park rangers. Peace officers assigned to manage the law enforcement needs of state parks and historic sites, who are appointed under authority of 253.065, RSMo, to enforce laws and provide law enforcement services on all lands and waters under the control of the Department of Natural Resources and all roadways within said boundaries.

(I) Park staff is any person employed either full or part time by the Division of State Parks or any person volunteering services under the supervision of full-time park employees, but not prison laborers or court-appointed laborers. In areas of state parks or historic sites that are under the control of a concessionaire, the concessionaire or his/her employees are also considered park staff for the enforcement of these rules.

(J) Person. The word "person" wherever used in these rules shall be construed to mean any person (including a minor), partnership, joint-stock company, corporation, unincorporated association or society or municipal or other corporation of any character whatsoever.

(K) Persons with a disability. Those people, as defined in the American's with Disabilities Act, eligible for a discount.

(L) Special management regulations are special rules enacted at one or more parks designed to improve management, protect resources, or assist with our mission for providing a safe, pleasant, recreational experience. Such rules may apply to campgrounds, picnic areas, shelter houses, and other recreational/management zones. Special management regulations shall be posted in the park/site area where they apply.

(M) Trails are recognizable routes intentionally developed and designated for certain modes of travel and are signed indicating their appropriate use.

(N) Vehicles (Non-Licensed).

1. All terrain vehicle (ATV) is a motorized vehicle having a maximum width of 50 inches and a maximum weight of 600 pounds designed to be operated off-road, with handlebar steering and a seat that is straddled by the operator. An ATV may be equipped with two, three, or more tires. This definition includes motorcycles designed for off-road operation.

2. Electrically-assisted pedal-powered vehicle. Any of the above self-propelled vehicles containing an electric motor designed to assist or supplement pedaling, and which shall not exceed a speed of 20 miles per hour.

3. Pedal-powered vehicle. A vehicle consisting of a tubular metal frame mounted on one, two, or three wire-spoked wheels equipped with handlebars and a saddlelike seat, and propelled by foot pedals, more commonly known as a unicycle, bicycle, or tricycle.

4. Powered-mobility vehicle. An electrically powered vehicle or device designed to accommodate or transport persons with disabilities, which includes wheelchairs and scooters, but does not include electric golf carts or utility vehicles.

(2) Camping Definitions.

(A) Basic Campsite. A basic campsite is one that includes a parking pad, fire grill, picnic table and lantern post.

(B) Camping is a recreational activity in which temporary outdoor living can be experienced.

(C) Camping day is any portion of a 24-hour period beginning at 3:00 p.m. that a camper occupied a campsite. Campers arriving prior to 3:00 a.m. shall be required to pay the camping fee.

(D) Camping fee is the fee charged campers for each camping day they occupy a site, which is based on available utilities.

(E) Designated campsites are those which are designated by numbered posts.

(F) Electric campsite. An electric campsite is one that includes an electric power supply in addition to the items listed for a basic campsite.

(G) Equestrian camps are areas designated to accommodate campers with horses, donkeys and mules.

(H) Overflow camping areas are designated to accommodate campers who arrive after all designated campsites are full. This is normally an unimproved area such as an open field.

(I) Sewer/electric campsite. A sewer/electric campsite is one that includes a sewer connection in addition to the items listed for an electric campsite.

(J) Travel camp refers to organized travel camping groups. Campsites for use by such groups are administered through special management regulations.

(K) Youth camp area. A youth camp area is usually an area with minimal development designed specifically for use by scouts and other nonprofit youth organizations.

(3) Group Camping Definitions.

(A) Camp director. The person from the using group designated as the authority responsible for the entire camping program.

(B) New group. For the purpose of group camping applications, a new group is considered to be any group that did not use the requested group camp in the prior year, requested additional or new camp dates, or failed to respond during the preferred application period.

(C) Group camp swim areas are:

1. A swimming pool, which is an engineered structure whose primary use is for swimming; or

2. Any beach or water facility located on a lake and dedicated solely for use by group campers.

(4) Jacob L. Babler Organized Group Center Definitions.

(A) Center in the following text always refers to the Jacob L. Babler Organized Group Center located in Dr. Edmund A. Babler Memorial State Park, Wildwood, Missouri. The primary mission of the center is to serve disabled or inclusionary groups.

(B) Center administrator. This person is the special organized group center administrator as set forth by the Missouri state merit system. The center administrator is the employee responsible for the operation of the center.

AUTHORITY: section 253.035, RSMo 2000. This version filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed June 10, 1981, effective Sept. 11, 1981. Amended: Filed March 18, 1987, effective July 23, 1987. Emergency amendment filed April 10, 1987, effective April 20, 1987, expired July 15, 1987. Rescinded and readopted: Filed Oct. 26, 2000.

PUBLIC COST: This proposed rule will cost state agencies an estimated \$1,500 for reprinting of the rules and regulations poster

distributed to each state park and historic site for the next ten years.

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 10 -Missouri Department of Natural Resources
Division: 90-State Parks
Chapter: State Parks Administration
Type of Rulemaking: New Rule (Definitions)
Rule Number and Name: 10 CSR 90-2.010

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by affected entities:
1	Division of State Parks	\$1,500

III. WORKSHEET:

\$1,500 each ten year period to the Division of State Parks for reprinting of the state park rules and regulations poster for public distribution.

IV. ASSUMPTIONS:

That the park system will print 5,000 rules and regulations posters three times in a ten-year period at a cost not to exceed \$1,500.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—Parks, Recreation and Historic
Preservation
Chapter 2—State Parks Administration

PROPOSED RESCISSION

10 CSR 90-2.020 Park Management. This rule was established for controlled management of the natural resources within state parks and for the safety and welfare of the visiting public, thus permitting every individual a pleasant experience.

PURPOSE: The Department of Natural Resources is proposing to rescind this rule due to significant changes in the original text and additions.

AUTHORITY: section 253.035, RSMo 1986. Original rule filed May 17, 1954, effective May 27, 1954. Amended: Filed Nov. 24, 1959, effective Dec. 3, 1959. Amended: Filed Jan. 16, 1963, effective Jan. 26, 1963. Amended: Filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 23, 1977, effective Oct. 13, 1977. Amended: Filed June 10, 1981, effective Sept. 11, 1981. Amended: Filed Dec. 14, 1983, effective March 12, 1984. Amended: Filed March 18, 1987, effective July 23, 1987. Emergency amendment filed April 10, 1987, effective April 20, 1987, expired July 15, 1987. Emergency amendment filed Aug. 5, 1987, effective Aug. 15, 1987, expired Dec. 15, 1987. Amended: Filed Aug. 5, 1987, effective Dec. 12, 1987. Rescinded: Filed Oct. 26, 2000.

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

PRIVATE COST: This proposed rescission will not cost private entities more than \$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 Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration

PROPOSED RULE

10 CSR 90-2.020 Park Management

PURPOSE: This rule is established for controlled management of the natural resources within state parks and for the safety and welfare of the visiting public, thus permitting every individual a pleasant experience.

(1) Animals. No person shall molest, harm, frighten, kill, trap, hunt, chase, capture, shoot or throw missiles at any animal; nor shall any person remove or have in their possession the young of any animal; nor shall any person collect, remove, have in their possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen, alive or dead, any animal; nor shall any person, agency, or organization purposefully release any animal that was obtained outside state park boundaries within any state park or historic site without written permission from the director. Animals may be collected or used for scientific purposes only by holders of a current Scientific Research Permit that was issued according to division policy: Scientific Research Permit

Process. Exceptions include: animals used for interpretive or educational purposes under the guidance of division employees in accordance with that policy; insects, ticks, chiggers causing or about to cause harm to any person; and the taking of animals as provided for by holders of a fishing license under the applicable provisions of the Wildlife Code and as otherwise posted.

(2) Public Sales. Public sales shall not be permitted in, or on, property owned or operated by the division without proper authorization. This applies to all public sales and includes the property of an employee whether employed, terminated, resigned or retired, and also includes concessionaires whose contracts have been broken or terminated.

(3) Fireworks. Possessing, exploding, discharging or burning within, or bringing into any state park or historic site firecrackers, torpedoes, rockets or other fireworks or explosives of flammable material or any other substance, compound, mixture or article that in conjunction with other substances or compounds would be explosive or flammable or discharging or throwing fireworks or other explosive or flammable materials into the park area from lands adjacent thereto is prohibited without written permission from the director.

(4) Public Speeches, Gatherings, Performances, etc. Organized activities are permitted providing the person(s) or representatives of the requested activity meet minimum management and operational criteria of the respective state park or historic site. Such activities include but are not limited to: any political party, social club or society, office aspirant, religious sect, circus or theatrical group, or other public exhibition, debate, drill or parade, musicians, weddings, public speeches, and performance of any act or ceremony. Such activities require the written permission of the facility manager. Procedures for requesting permission, defining the scope and nature of the activity, limits and restrictions, and approval/disapproval notification are specified in the division's policy manual.

(5) Contributions. No person shall solicit contributions for any purpose, whether public or private, in any state park or historic site without the written consent of the director or designee.

(6) Vending, Peddling, etc. No person shall sell or offer for sale, hire, lease or let out any other thing or engage in any business or erect any building, booth, tent, stall or any other structure whatsoever whether temporary or permanent within any state park or historic site, without written permission from the director. Exception is made to any regularly licensed concessionaire acting by and under authority and regulation of the Department of Natural Resources and providing food, goods and services for the benefit of the public. Any licensed concessionaire may waive, in writing, their exclusive privilege to provide food, goods, and services.

(7) Signs.

(A) Official Signs. Any sign, posted by park staff necessary for the safety of visitors or maintenance of the facility, in any state park or historic site which requires or prohibits certain conduct of persons or vehicles shall be obeyed.

(B) Other Signs. No sign, notice or advertisement of any nature shall be erected without permission from the facility manager or designee.

(8) Broadcasts. No musical instrument, radio, tape recording, television or sound track shall be operated or any noise made for the purpose of attracting attention to any person, political party, religious institution or meetings or assemblies thereof, or for the purpose of demonstrating, advertising or calling attention to any

article or service for sale or hire within a state park or historic site, without proper authorization.

(9) Disorderly Conduct. No person shall disobey a reasonable order of a facility manager, ranger, caretaker or other authorized park staff; commit a nuisance, use abusive language or unreasonably disturb or annoy others within a state park or historic site. An example of an unreasonable disturbance or annoyance is the operation of any music making or noise-making device at a volume determined by authorized personnel to be excessive.

(10) Refuse and Trash. No person shall deposit in any part of any state park or historic site any garbage, sewage, refuse, waste, fruit, vegetables, foodstuffs, boxes, cans, bottles, jars, paper, or other litter, waste materials or obnoxious materials, except in containers or places designated for these purposes. Any material so disposed of shall have been generated at that state park or historic site and shall not have been brought into the area only for disposal. The facility manager shall have the authority to establish a disposal fee, by written policy, for sewage disposal at approved locations and by approved methods. The fee shall be waived for campers using the facilities campground.

(11) Pollution of Waters. No person shall throw, discharge or otherwise place or cause to be placed in the waters of any pool, fountain, pond, lake, stream or other body of water in or adjacent to any state park or historic site, or any tributary, stream, storm sewer or drain flowing into the waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of waters. No person shall dump or deposit any bottles, broken glass, ashes, papers, boxes, cans, waste, garbage or other trash in any waters in or contiguous to any state park or historic site.

(12) Pets and Animals at Large.

(A) No person shall allow any domestic or other animal under his/her control or ownership to range within any state park or historic site unless restrained by a leash not longer than ten feet held by a person capable of restraining a pet or firmly affixed to some stationary object so as to prevent the animal from ranging at large. Controlling an animal by using an electric collar does not meet the requirements of this rule or state law. Except for dogs assisting persons with disabilities, no domestic household or other animal shall be allowed inside any state park or historic site building under the control of either the division or a concessionaire licensed by the Department of Natural Resources unless permission is granted by the director. Park staff are authorized to capture and take any animals running at large to a local veterinarian, animal shelter, or animal impound. If the owner can be identified, the owner is responsible for all necessary fees involving the capture and impounding of the animal.

(B) Park staff, and specifically when possible park rangers, shall investigate all animal bites or attacks and recommend a classification of the incident and a determination concerning each reported animal bite or attack.

1. The investigating staff member shall determine if the bite/attack was accidental or non-accidental. If non-accidental, the animal shall be determined to be dangerous or vicious. No animal is considered dangerous or vicious if the approach, injury, or damage was sustained by a person who was tormenting, abusing, or assaulting the animal; or was committing or attempting to commit a crime or intentional tort which would warrant immediate defense of person or property.

2. All animals involved in bites or attacks are subject to immediate impoundment by the investigating park personnel. Park staff or peace officers are authorized to use lethal force to apprehend animals involved in a bite or attack. Such lethal force shall be in compliance with such agency's policies and procedures.

3. Owners of animals are subject to fines, penalties, and any necessary capture, disease tests, impound, quarantine fees, and medical bills incurred by park staff for the animal's removal. Owners are required to report bites or attacks to park personnel.

(13) Traffic.

(A) All applicable provisions of state laws and rules regulating the equipment and operation of motor vehicles on Missouri highways will be strictly enforced in the parks and historic sites. Motorized self-propelled vehicles or equipment may be operated only on park roads and thoroughfares unless otherwise permitted by park staff. No person shall drive a vehicle in a Missouri state park or historic site in excess of 20 miles per hour, unless otherwise posted. Powered-mobility vehicles used to transport persons with disabilities are permitted on park/site trails, boardwalks, and other accesses where suitably designed.

(B) Those sections in Chapter 300, RSMo, as may hereafter be amended, not inconsistent with sections 253.150 to 253.170, RSMo are hereby adopted by reference for Missouri state parks and historic sites. The penalties for violations of these sections are described in 253.170, RSMo.

(14) Park Rangers, Appointment, Powers as Peace Officers. Park Rangers and commissioned facility managers, employed as peace officers by the division under the authority of 253.065, RSMo, are empowered to enforce the provisions of 10 CSR 90-2.010 through 10 CSR 90-2.060 and all applicable state laws.

(15) Parking.

(A) Parking areas are designed and developed within state parks and historic sites specifically for the use of state park and historic site visitors only; and shall accommodate only those vehicles driven or chartered by park or historic site visitors. Open containers of intoxicating liquor and/or non-intoxicating beer are prohibited in parking areas or other areas as designated by the division director.

(B) The division hereby establishes parking spaces for persons with disabilities when their vehicles display a license or placard as defined in 301.071 or 301.142, RSMo. Said spaces shall be marked as indicated in 301.143, RSMo. Misuse of these spaces are a violation of state law and are punishable under state law.

(16) Enforcement. It is the responsibility of the facility manager and all other park staff as assigned to administer, enforce and encourage compliance with all the provisions of 10 CSR 90-2.010 through 10 CSR 90-2.060, all other rules, division policies, and state statutes as they apply to state parks in general.

(17) Discharging Weapons. The discharging of any device which propels an object, including, but not limited to rifles, pistols, shotguns, BB guns, paintball guns, bow and arrows, sling shots, or any devices which use burning powder, explosives, compressed gases is prohibited, except in areas designated by the director. This does not apply to acts of self-defense or to peace officers or park staff acting in the line of duty.

(18) Cabins and Other Lodgings. The division or a concessionaire may administer policies governing the use and rental of cabins and other lodgings designed to improve management, protect the resources, or assist with our mission for providing a safe, pleasant, recreational experience based on the needs of a facility. There shall be minimum rules for all cabins and other lodging which shall include check-in and checkout times, prohibitions against disorderly conduct, and hours to maintain quiet. Such rules shall be approved by the director and posted in each rental unit.

AUTHORITY: section 253.035, RSMo 2000. Original rule filed May 17, 1954, effective May 27, 1954. For intervening history,

please consult the Code of State Regulations. Rescinded and read-opted: Filed Oct. 26, 2000.

PUBLIC COST: This proposed rule may cost state agencies \$1,500 per year in the aggregate. See fiscal note.

PRIVATE COST: This proposed rule may cost private entities \$1,500 in the aggregate per year. See fiscal note.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 10 -Missouri Department of Natural Resources
Division: 90-State Parks
Chapter: State Parks Administration
Type of Rulemaking: New Rule (Park Management)
Rule Number and Name: 10 CSR 90-2.020

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by affected entities:
1	Division of State Parks	\$1,500 per year
1	Local animal shelters	\$500 per year

III. WORKSHEET:

Up to \$1,500 each year to the Division of State Parks for impounding fees, flea dips, vaccinations, tests to as many as ten animals (dogs-either impounded or stray).

Less than \$500 each year to local animal shelters for possible increase in impoundment fees resulting from transport/impoundment of stray dogs and cats left abandoned. This already occurs in all state parks and historic sites, but the amendment clarification may encourage park staff to impound additional animals.

IV. ASSUMPTIONS:

That the park system will print 5,000 rules and regulations posters three times in a ten-year period.

That park staff will capture and transport some 20 additional stray animals to local animal shelters as a result of this rule change. An animal shelter on the average absorbs the \$10 per day impoundment fee X five days for each animal impounded.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 10 -Missouri Department of Natural Resources
Division: 90-State Parks
Chapter: State Parks Administration
Type of Rulemaking: New Rule (Park Management)
Rule Number and Name: 10 CSR 90-2.020

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by affected entities:
5-10	individuals	\$1,500

III. WORKSHEET:

Less than \$300 per any one individual park visitor when/if an animal in their control and ownership inflicts injury to another. Park ranger staffs are authorized to impound the animal. The pet owner is responsible for paying impounding fees, flea dips, vaccinations, and tests. In the aggregate, the total cost to all individuals may be as much as \$1,500 per year; however, this is difficult to quantify and determine the actual outcome of each case in which a park visitor is injured by an animal.

IV. ASSUMPTIONS:

The park ranger program anticipates as many as 5 to 10 animal-related injuries each year; however, impoundment is at the discretion of the pet owner, park ranger, and complainant (in the event the owner can show proof the animal is vaccinated against rabies). Park staff may hold and impound upwards of 5 animals per year at the local animal shelter.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—Parks, Recreation and Historic
Preservation
Chapter 2—State Parks Administration

PROPOSED RESCISSION

10 CSR 90-2.030 Recreational Activities. This rule was established as a means of informing the public of the availability, restrictions and proper usage of the various recreational activities and facilities provided in state parks.

PURPOSE: The Department of Natural Resources is proposing to rescind this rule due to significant changes and organization of the original text.

AUTHORITY: section 253.035, RSMo 1986. This version of rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Jan. 16, 1978, effective May 11, 1978. Amended: Filed May 29, 1981, effective Sept. 11, 1981. Amended: Filed June 10, 1981, effective Sept. 11, 1981. Amended: Filed March 31, 1982, effective Aug. 12, 1982. Amended: Filed Dec 14, 1983, effective March 12, 1984. Amended: Filed Jan. 11, 1984, effective May 11, 1984. Amended: Filed April 5, 1985, effective June 27, 1985. Amended: Filed March 18, 1987, effective July 23, 1987. Emergency amendment filed April 10, 1987, effective April 20, 1987, expired July 15, 1987. Rescinded: Filed Oct. 26, 2000.

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

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate per year.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration

PROPOSED RULE

10 CSR 90-2.030 Camping and Recreational Activities

PURPOSE: This rule is established as a means of informing the public of the availability, restrictions and proper usage of the various recreational activities and facilities provided in state parks.

(1) Any violation of the general rules, regulations, division policies, and state statutes occurring in a campground in any state park or historic site shall also be a violation of our campground management rules.

(2) **Camping Fee.** A separate camping fee shall be charged for each camping day a designated campsite, overflow or other camping area is occupied. The fee is charged on the basis of available utilities, whether used or not. Methods of collection (site to site, office, fee booth, etc.) for each campground shall be posted as public information. Camping permits once issued and paid for are nontransferable.

(3) **Camping Areas.** Camping areas are for overnight camping only. Camping is permitted only on designated campsites, overflow camping areas, and other camping areas, unless otherwise authorized by the director or his designee.

(4) **Campsite Capacities.**

(A) The allowable and acceptable occupancy on one campsite is as follows: Two sleeping units, only one of which can be wheeled, and one additional non-sleeping mode of transportation vehicle; or two tents and two non-sleeping modes of transportation vehicles. The facility manager must approve this and any other exceptions to the campsite capacity limits.

(B) Six people is the maximum number allowed per campsite, unless the group is defined as indivisible.

1. **Indivisible.** A group of persons, campers, tents and vehicles that cannot be reasonably divided to occupy more than one site. Examples: Parent(s) or guardian(s) with minor children or dependents; or a single motorized camper with its occupants.

(C) **Vehicles and Trailer Wheels.** All wheeled vehicles and trailers (boat, etc.) must be confined to the campsite parking pads or other designated parking areas. Unless otherwise provided under the special management regulations, no wheeled vehicles or trailers shall be allowed to park on the grass or along campground roads.

(D) Capacities may be limited by campsite design.

(E) Only one electric plug-in is allowed at each campsite.

(5) **Campsite Availability.** Campsites are available on a "first-come first-served" basis except those which have been reserved under the formal reservation system or as provided for under other regulations. A campsite is considered unavailable and occupied when it contains substantial personal property (i.e., dining fly, trailer, tent, licensed vehicle), and/or contains an official marker/sign as provided specifically by the park/site, and/or has posted (within a reasonable time frame) a valid camping permit. The valid camping permit shall take priority as evidence and first right of occupancy for the standard camping day in the event the campsite is inadvertently occupied by anyone other than the original holder of the camping permit.

(6) **Quiet Hours.** Campground quiet hours are between 10:00 p.m. and 6:00 a.m. All non-campers must leave the campground by 10:00 p.m. This regulation prohibits any excessive or disruptive noises that are defined as noise emanating from radios, stereo systems, televisions, electric generators, loud conversations, etc., which can be heard by other persons not on the same campsite or same general area. The use of excessive or disruptive noises applies elsewhere and is not permitted between the hours of 6:00 a.m. and 10:00 p.m. also, unless otherwise allowed by the facility manager.

(7) **Camping Limits.** Camping is limited to any 15 days within a 30 consecutive day period at one park, unless otherwise provided by special management regulations. This limit applies to any individual, group and/or camping unit.

(8) **Unattended Property.** Campers shall not be allowed to leave personal property unattended on a campsite for more than 24 hours without written permission from the facility manager or his/her designee. Such permission shall be given only in special circumstances such as medical emergencies or equipment failure.

(9) **Holding or Reserving a Campsite.**

(A) In addition to a camper's own campsite, one additional campsite may be held for another camper anticipated to arrive later that same day, providing substantial personal property is placed on the campsite. The fee for the additional campsite must be paid and the permit posted.

(B) Reservable campsites shall not be occupied without a reservation, or directions from the park staff. Paid-for reservation campsites will be held vacant for the payer until 3:00 p.m. on the last day paid for.

(10) Camping Services. The facility manager will post in plain view of arriving campers an enumerated list of camping services and the inclusive dates and times those services are offered.

(11) Bug Lights. The use of electronic insect killing devices is prohibited.

(12) Campsites Designated for Persons with Disabilities. A campsite designed for persons with disabilities may be sold to campers without disabilities when all of the particular types (basic, electric, sewer/electric) of campsite have been sold. A camper without disabilities may occupy the campsite for persons with disabilities for the duration of his/her camping stay on a day-by-day basis if a similar campsite is not available. Should a camper with disabilities arrive prior to 6:00 p.m., the camper without disabilities shall be required to move to a similar campsite if available.

(13) Overflow Camping. Overflow camping areas to accommodate special circumstances may be established by the facility manager with the approval of the district office. The duration of use and location of overflow camping areas will be determined by the facility management to provide limited overnight campsites within the capabilities of the facility and its resources.

(14) Special Use Camp Areas.

(A) Special use camp areas are assigned on a "first-come first-served" basis or may be reserved by phone or mail.

(B) Camping fees shall be determined by the director.

(15) Equestrian Camping.

(A) Equestrian campers must camp in designated equestrian camping areas.

(B) Animals are the responsibility of their owners and must comply with all health and safety laws and regulations.

(16) Camping Along Trails.

(A) Camping shall be permitted only along certain designated bicycle, equestrian and backpacking trails.

(B) Trail campers shall register before using the trail.

(C) Trail camping shall be restricted to appointed areas along the trail unless otherwise posted. When allowed in other than appointed areas, all camping shall take place at least 100 feet from the designated trail, at least 200 feet from any public use area facilities.

(17) General Camping Rules.

(A) No sewage or treated water, commonly referred to as "grey water," shall be discharged from tents, campers or recreational vehicles except at designated locations.

(B) Fires shall be attended to at all times and restricted to fire pits, barbecue grills, where provided, or at locations approved by the facility manager. Fires may be prohibited throughout the park by special order of the facility manager when fire conditions warrant.

(C) Lanterns shall not be hung on trees or shrubs.

(D) Trenching around tent camps for protection against water or wind damage shall not be permitted.

(E) At Finger Lakes State Park intoxicating liquor and/or non-intoxicating beer may be possessed only in designated camping areas and only by persons who have paid the appropriate camping fee.

(18) Swimming.

(A) No person shall swim, bathe or otherwise enter any waters owned by, leased to, or under the control of the division, includ-

ing designated swimming areas, unless otherwise posted or as directed by the facility manager or designee. Special warnings and restrictions may apply.

(B) No person shall dress or undress on any beach, state building, or other place in any state park area, except in bath houses, personal camping units, or structures provided and maintained for that purpose. Swimmers and bathers shall be dressed at all times in proper attire that conforms to commonly accepted social standards.

(C) No person shall throw, cast, lay or deposit any glass, crockery, or any part thereof, or any metallic substance in any swimming area in any state park or historic site.

(D) No person, dogs or pets shall wash or be washed with or without soap or other cleansers in swimming areas or any waters under the control of the director. Dogs and pets are not allowed in designated swimming beaches, or as otherwise posted.

(E) Swimming beaches and pools may be closed to the public and bathing therein be prohibited at any time when, in the opinion of the facility manager or concessionaire, bathing is dangerous or otherwise inadvisable.

(F) Possession of intoxicating liquor and/or non-intoxicating beer is prohibited in any designated swimming area or adjacent parking lots, or other areas as posted.

(G) Every person shall comply with posted rules at designated swim areas.

(H) Fishing and boating are permitted only outside designated swim areas.

(19) Picnic Areas and Use. Areas are designated for picnicking to include such amenities as parking, picnic tables, fire grills, and restrooms. Picnicking is permitted in any state park or historic site in areas set apart and designated for that purpose. No fires are permitted except in personal campstoves or grills provided by the park or site for outdoor cooking. Picnicking is not permitted in designated campgrounds, except with permission of the facility manager or designee.

(A) Use of grills, tables and benches generally follows the rule of first-come first-served, but no person or group shall use any picnic area, shelter or facility to the exclusion of other persons for an unreasonable time if facilities are crowded, except as allowed by 10 CSR 90-2.030(28). Determination of what is unreasonable shall be at the discretion of the facility manager.

(B) To maintain cleanliness and reduce fire hazard, each picnic party shall see that its fire is completely extinguished before the area is vacated, unless it is to be used by others and that all trash, such as boxes, cans, papers, bottles, garbage and other refuse is placed in receptacles provided for that purpose.

(20) Horses, donkeys, and mules are permitted only in designated areas within state parks and historic sites and are not permitted in camping areas, picnic areas, or other public use areas. Horses, donkeys and mules shall have a rider on them or they shall be tied in a designated area. Horses, donkeys and mules shall not be ridden on foot trails, through streams, off designated trails, or tied to trees without the permission of the facility manager. In those facilities that require a rider's permit or that seasonally close riding trails or areas, it is the responsibility of the rider to obtain the proper permit.

(A) Equestrian owners or riders must show proof of current negative Coggins test (equine infectious anemia) upon request by appropriate park personnel and can be denied access to the facilities if such proof cannot be provided.

(B) In those undeveloped areas where horseback riding is permitted at random, horses, donkeys and mules shall be properly restrained, ridden with due care and shall not be permitted to graze unattended.

(21) **Hunting.** Rules relating to hunting in Missouri state parks and historic sites are governed by Chapter 252 and 253.200, RSMo. and the wildlife code of Missouri, as hereafter amended. Hunting, trapping or the pursuit of wildlife is forbidden at all times in all parks and historic sites. Spotlighting wildlife by flashlight, floodlight, or vehicle headlights is prohibited unless under the guidance of a park employee. No individual shall use or discharge weapons of any type in any state park or historic site, without written permission of the director with the following exception:

(A) Hunting shall be permitted in designated areas of Missouri's state parks only during periods of special hunts, which shall be sponsored jointly by the Department of Natural Resources' Division of State Parks and the Department of Conservation to control or prevent animal overpopulation or to control or prevent problems related to overpopulation such as damage to natural resources, property damage or public health hazards. Due to the changing locations of these hunts and conditions for hunting, the policies governing them shall be developed and announced jointly by the division and the Missouri Department of Conservation prior to the designated hunts.

(22) **Fishing.** Fishing shall be permitted in waters of state parks and historic sites under applicable provisions of the Missouri wildlife code.

(A) All state fishing laws and boating laws shall be obeyed; commercial fishing or the buying or selling of fish caught in park waters is forbidden.

(B) Fishing may be prohibited in certain areas as designated by the director and upon the proper posting of these areas.

(23) **Boating.** Unless otherwise prohibited boating is allowed in state park waters in accordance with state and federal rules and regulations. State park waters fall under the jurisdiction of various state and federal agencies. The Missouri Water Patrol, Missouri Coast Guard, U.S. Army Corps of Engineers and/or Missouri Department of Conservation promulgates the regulations pertaining to boating. Specific regulations regarding boating generally are posted at points of access.

(A) Boating of any kind in a designated swim area shall be prohibited except for official boating as is necessary to keep the areas properly protected and policed.

(B) No watercraft shall be launched into or removed from any park waters, tied to trees or land objects, except at places that are designated for this use. No privately owned boat or watercraft of any kind shall be left by its owner in park waters (waters totally owned by the Department of Natural Resources) in excess of 24 hours without written permission of the facility manager or designee.

(C) No person other than a concessionaire or employee of the division shall be permitted to rent, hire, or operate for charge any kind of boat or watercraft, whether powered or not, on any park waters.

(D) The director may establish limits for the horsepower of outboard motors that may be operated in park waters.

(E) On waters managed under agreement with the Department of Conservation, special regulations specified in 3 CSR 10-4.116 also apply and may be enforced by park staff.

(F) Those sections in Chapter 306, RSMo, as may hereafter be amended, not inconsistent with this code are hereby adopted by reference for Missouri state parks and historic sites and may be enforced by park staff.

(24) **State Park and Historic Site Concessions.**

(A) **Cabins and Other Lodgings.** The normal operating season, days, and times for state park cabins, motels, and other lodgings shall be established by the director when the division operates as the concessionaire or by contract between the department and a facility's concessionaire.

(B) **Reservations.** Requests for lodging reservations shall be made with the park concessionaire. Reservations shall be confirmed upon payment of a deposit in the amount of the first night's lodging. The lodging policy for concessions operating motels, cabins, duplexes, suites, or any type of lodging, meeting, conference space, shall be reviewed by the division director or his/her representative for approval on an annual basis at the same time price changes are reviewed.

(C) During the period of May 25 through September 7, a one-night reservation request shall not be accepted or confirmed until one week prior to date of arrival.

(D) Cabins, motels, and other lodgings shall not be guaranteed for occupancy before 3:00 p.m. and check-out time is 11:00 a.m.

(E) **Dining Lodges.** The normal operating season for state park dining lodges is established by the director when the division operates as the concessionaire or by contract between the department and a facility's concessionaire.

(F) **Marinas.** The normal operating days and seasons for state park marinas are established by the director when the division operates as the concessionaire or by contract between the department and a facility's concessionaire.

(G) **Swimming Pools and Beaches.** The normal operating days and seasons for state park swimming pools and beaches are established by the director when the division operates as the concessionaire or by contract between the department and a facility's concessionaire. Swimming pools and beaches may be closed due to hazardous conditions or in the event of inclement weather.

(H) Other concessions shall be open as approved by the director.

(I) Concessionaires shall provide the director with an annual pricing review, comparing concession prices with those of direct competitors for equivalent goods and services, i.e., for lodging, watercraft slips and rentals, etc.

(25) **Shelter Houses.** Open shelters and/or enclosed shelters may be provided in the day use areas of Missouri's state parks and historic sites. These shelters may be reserved for guarantee of use by contacting the facility manager of the park or historic site concerned. Requests for reservations shall be accompanied by a cashier's check, money order, personal check, cash, or credit card equal in amount to the fee for use of the facility. Reservations canceled less than seven days prior to the day of the reservation will cause forfeiture of the reservation fee.

(A) The open shelters, when not reserved, shall be available for free use on a first-come first-served basis.

(B) Fees for the guarantee of use of the open and enclosed shelters shall be established by the division and posted within the park or historic site.

(C) Open and enclosed shelters must be vacated by 10:00 p.m. daily or earlier if the shelter is located in an area that closes before 10:00 p.m.

(D) An individual from the reserving group of an enclosed shelter shall contact the park or historic site personnel to arrange that the building is unlocked prior to the agreed upon time of use and locked after the use of the building.

(26) **Historic Structures.** Fees charged for entrance to historic sites, their associated structures, museums or features shall be established by the director of the Department of Natural Resources and shall be posted at the historic sites alongside the hours of operations. The following rules shall apply to all state historic sites or buildings:

(A) Smoking is not permitted in any state historic building, structure or museum except in areas so designated for the public or upon permission of the facility manager or director; and

(B) Consumption or introduction of foods or drinks in any state historic building is prohibited unless in areas so designated for the public or upon permission of the facility manager or the director.

(27) Off-Road Vehicle (ORV) Areas.

(A) ORV areas are located in Finger Lakes and St. Joe state parks.

(B) Only ATVs and motorcycles may be operated in ORV areas, except that the operation of other vehicles be permitted with the proper authorization. Other motorized vehicles are specifically prohibited on wooded trails at St. Joe State Park, except for maintenance and rescue operations.

(C) Passengers are not permitted on ATVs or motorcycles. Where permitted, other motorized vehicles may carry as many passengers as there are seat positions provided that all passengers are seatbelted.

(D) Operators of ATVs and motorcycles must wear protective helmets that meet United States Department of Transportation or ANSI Z90.1 certification. Operators and passengers of other motorized vehicles without fully enclosed metal cabs must also wear such protective helmets.

(E) Motorized vehicles, except motorcycles, must be equipped with a flexible mast, minimum of 72 inches in length, with a day-glow orange or yellow flag measuring at least 72 square inches displayed at the top of the mast.

(F) All ATVs and motorcycles must be equipped with a spark arrester, functioning brakes and muffler designed so that the noise level does not exceed 86 dbA.

(G) Before entering the off-road vehicle (ORV) area, each off-road vehicle may be inspected by park staff for compliance with the safety equipment requirements.

(H) The speed limit within the staging area or the entrance road to the ORV area shall be five miles per hour. No exhibition driving will be allowed within these areas. The speed limit in the designated buffer area between the staging area and the ORV riding area shall be 20 miles per hour.

(I) Operators under 16 years of age and/or unlicensed operators must have direct supervision of a licensed adult while operating a motorcycle or ATV. Persons under 12 years of age may not operate three-wheeled ATVs.

(J) Use of or being under the influence of alcohol or drugs while operating an ATV or motorcycle is prohibited.

(K) Persons under 16 years of age should not operate any ATV that the manufacturer recommends be operated only by an adult.

(L) Access to the lakes in the ORV area at St. Joe State Park shall be provided to persons for the purpose of fishing only. Vehicle access requires a pass to be obtained from park staff. The pass may be revoked for unauthorized conduct.

(M) Open or closed containers of intoxicating liquor and/or non-intoxicating beer are prohibited in ORV areas, staging areas, entrance roads, and other areas designated for ORV operation.

(N) At St. Joe and Finger Lakes state parks, a use permit will be required for each ORV operated in the ORV area. The director shall establish the types of permits and the permit fee.

(O) ATVs and motorcycles shall be unloaded and loaded only on designated locations within the ORV areas. ATVs and motorcycles are prohibited on the beaches, beach access trails and paved roads.

(P) Areas within the ORV area may be posted as closed to vehicle traffic for emergencies or due to other management practices.

(28) Use of Pedal-Powered or Electric-Assisted Vehicles. To facilitate accessibility to the public, the use of pedal-powered and electrically assisted pedal-powered vehicles is permitted on all trails designated for bicycle use. Powered-mobility vehicles are permitted on all trails designated for pedestrians. Permitted use does not infer that trails meet standards in accordance with the Americans With Disabilities Act unless they are so designated. Pedacycles or other vehicles which use gasoline or other hydrocarbon fuels are specifically prohibited from operation on such trails, unless being used by park staff or emergency response personnel for maintenance or public safety concerns.

(29) Other Recreational Activities.

(A) State parks and historic sites provide opportunities for our visitors to engage in varied recreational activities. However, the division maintains the right to prohibit or otherwise restrict recreational activities that are not in keeping with the mission and objectives of the Department of Natural Resources, that may damage property, that require special safety measures, or that conflict with other uses of an area. Such prohibitions or restrictions shall be determined by the director, who may establish policy or procedures to regulate conduct.

(B) Specific recreational activities that are restricted by policy include using metal detectors, caving, rock climbing and rappelling, diving, and conducting special events and activities.

(C) Additional recreational activities may be restricted by policies established after the effective date of this provision and/or by signage.

AUTHORITY: section 253.035, RSMo 2000. This version of rule filed Dec. 31, 1975, effective Jan. 10, 1976. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed Oct. 26, 2000.

PUBLIC COST: This proposed rule may cost the state agency as much as \$1,764 per year in labor cost to collect more camping fees. However, additional revenues generated by the sale of an estimated 400 to 500 camping permits may offset this increase. The agency has no current formula for determining this difference.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 10 -Missouri Department of Natural Resources
Division: 90-State Parks
Chapter: State Parks Administration
Type of Rulemaking: New Rule (Camping and Recreational Activities)
Rule Number and Name: 10 CSR 90-2.030

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by affected entities:
1	Division State Parks	\$1,764/year

III. WORKSHEET:

Section 4 on Campsite Capacities may increase the total hours labor needed to collect additional camping fees resulting when former camping parties occupying one campsite must separate and occupy two. This cost may exceed \$500 in the aggregate for the 40 campsites systemwide. The intent of the change is to reduce overcrowding impacts including resource damage, law enforcement and public safety incidents, and too many vehicles parked on campsites, overcrowding of restrooms. The division has no current formula or equation to determine the difference.

IV. ASSUMPTIONS:

Of the estimated 290,000 camping permits sold in 1999 each representing one campsite, the change in camping capacity may result in a 1 to 2 percent increase in permits sold, or approximately 400 to 500 permits. Labor needed to process each additional camping permit is 10 minutes each or as high as 84 hours labor X an average of 3 camping days per permit. This times \$7.00 per hour equals \$588 X 3 or \$1,764 in the aggregate per year.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—[Parks, Recreation and Historic
Preservation] State Parks
Chapter 2—State Parks Administration

PROPOSED AMENDMENT

10 CSR 90-2.040 Park Property. The division is amending the Purpose, sections (1)–(8) deleting section (6) and adding section (7).

PURPOSE: This amendment updates and clarifies this rule regarding park property.

PURPOSE: This rule is established to ensure the care and protection of all natural and manmade resources within [the] state parks and historic sites.

(1) **Buildings, Signs and Other Property.** No person shall in any manner willfully mark, deface or injure in any way, or displace, remove or tamper with any state park or historic site buildings, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, park signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers or other structures, equipment or facilities, without [the] written permission from the director. Requests for removal of **buildings and structures** shall *[include a complete description of the property to be removed and the reason for its removal]* follow procedures as outlined in the division's policy regarding care and treatment of cultural resources.

(2) **Unauthorized Use or Removal of Park Property.** No person shall dig, move, mar, deface or remove from any state park or historic site area any beach sand, gravel, or minerals, whether submerged or not, or any soil, rock, artifacts, relics, stones, trees, shrubs or plants, *[downtimber]* **down-timber** or other wood materials, or make any excavation by tool, equipment, blasting or other means or agency, or construct or erect any building or structure of whatever kind whether permanent or temporary in character or run or string any public service utility into, upon or across the lands without written permission from the director.

(3) **Climbing on Property.** No person shall climb, clamber on or over any buildings, structures, forts or ruins in any state park or historic site unless s/he *[are]* is conducted by the *[park superintendent]* **facility manager** or his/her authorized representative.

(4) **Trees, Shrubbery, Lawns, etc.** No person shall cut, carve or injure the bark, or break off limbs or branches or mutilate in any way, or pick the flowers *[or seeds]* of any *[tree or]* plant species within any state park or historic site. *[, except that wild fruits may be picked for personal consumption within the state park or historic site.]* Persons may collect for personal consumption within the state park or historic site small quantities of wild edible fruit, berries, seeds, and nuts (excluding below-ground plant parts) in quantities not to exceed a one-gallon container. Any such edible fruit, etc. so *[picked may]* collected shall not be transported outside the state park or historic site. Every person is permitted to collect by hand edible mushrooms for personal consumption outside the state park or historic site providing that the quantity collected does not exceed that which fills a two-gallon container. *[Nor shall any]* No person shall dig in or otherwise disturb or destroy grass areas, or lawns, pile debris or material of any kind on park grounds, or attach any rope, wire or other contrivance thereto. No person shall *[transplant]* plant or remove any *[live tree, plant, vine or fern]* vegetation and/or propagules (seeds, roots, etc.), or collect or remove flowers, *[other than those located in construction*

areas,] or other plant parts without written permission from the director.

(5) **Caves.** Any person desiring to enter a natural cave *[or a mine]* in any state park or historic site shall *[first secure a permit from the park superintendent or his/her designated representative and register with him/her all individuals entering the cave or mine]* **comply with the requirements posted at the cave entrance. If no sign is posted at the cave entrance, then the facility manager or designee must be contacted to determine access requirements.** This same person shall check out with the *[superintendent]* **facility manager** or his/her representative prior to leaving the park. The following conditions will be met *[before]* for those caves in which a permit is issued. Failure to comply shall be cause for revocation of the permit.

(B) All *[individuals]* persons will be familiar with the state park rules and shall agree not to litter, remove, injure, disfigure, deface or destroy any living organism, object or portion of the cave *[visited]*.

(C) Each *[individual]* person shall have three *[(3)]* individual sources of light.

(D) Each *[individual]* person shall wear a hard hat.

(E) Each *[individual]* person shall carry plastic bags for removal of trash and solid human waste and to keep spent car-bide in.

[(H) In caves where water passages are utilized, a canoe or rubber raft shall be used. Wading or swimming is not permitted.]

[(6) Fencing on Park-Owned Property. The division will fence any state park or historic site or parts thereof when fencing is determined by the director to be essential or helpful in the use, care and preservation of the park or park lands in question.

(A) The division will not fence any of its properties at the mere instance or request for the convenience or benefit of any person owning lands contiguous to state park lands.

(B) If, by reason of any pledge or promise by one with authority and in the employment of former state park boards, any person has made conveyance of land to the state or has surrendered up any right or thing of value, for which the pledge or promise was a partial consideration, then the division will recognize and honor the pledge or promise. The promise will only be honored if in writing and on file in the office of the division.]

[(7)] (6) Limited Access Areas. Certain areas within state parks and historic sites possessing unusual natural significance and being vulnerable to damage resulting from public access shall be designated as limited access areas by the director. Areas so designated shall be properly posted. Entrance to limited access areas shall require the *[written]* permission of the *[director]* **facility manager**.

(7) **Natural Resource Management.** The Division of State Parks is authorized to expend funds and allocate resources as appropriated for the purpose of managing natural resources on state parks and historic sites. These activities may include prescribed burns, removal or control of native and exotic plant species, tree thinning or removal; or other manipulations of native plants and wildlife deemed necessary to protect and sustain natural ecosystems. No such actions shall be engaged upon without the written permission from the director, either specifically for that project or as part of an approved management plan for a state park or historic site.

(8) **Bridge Load Limits.** Certain bridges owned and maintained by the Department of Natural Resources will be posted with load limit and speed limit signs as required to ensure the safety of the

motorists and to preserve the integrity of the bridge structures. These limits shall conform to recommendations resulting from engineering studies or Missouri Department of Transportation evaluations.

AUTHORITY: section 253.035, RSMo [1986] 2000. Original rule filed May 17, 1954, effective May 27, 1954. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 26, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—Parks, Recreation and Historic
Preservation
Chapter 2—State Parks Administration**

PROPOSED RESCISSION

10 CSR 90-2.050 Organized Group Camps. This rule established an orderly procedure to make facilities safe and available to the public.

PURPOSE: The Department of Natural Resources is proposing to rescind this rule due to the significant changes in the original text and for purposes of clarity.

AUTHORITY: section 253.035, RSMo 1986. This version filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed June 10, 1981, effective Sept. 11, 1981. Amended: Filed Dec 14, 1983, effective March 12, 1984. Amended: Filed March 18, 1987, effective July 23, 1987. Rescinded: Filed Oct. 26, 2000.

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

PRIVATE COST: This proposed rescission will not cost private entities more than \$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 Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration**

PROPOSED RULE

10 CSR 90-2.050 Organized Group Camps

PURPOSE: This rule is established to provide an orderly procedure in making the facilities available to the public and guaranteeing their safety and welfare while using these facilities.

(1) Application Procedure.

(A) Group camps shall be available for use from April 15 through October 15 each year.

(B) Any group may apply to reserve a group camp by requesting an application from the facility manager of the park it wishes to visit or by contacting the Division of State Parks, P.O. Box 176, Jefferson City, MO 65102.

(C) Applications for reservations may be taken up to eleven months in advance of the day of arrival and must be submitted by mail only. All applications for the next calendar year open season are due by October 16. Those groups applying after that date will be offered remaining dates. The reserving party must also indicate a second and third priority stay period. Rental priorities shall be given to nonprofit, youth organizations, and/or applications with the earliest postmark.

(D) The camp schedule shall be set not later than November 15. In the event of duplicate requests, the facility manager has the right to consider second and third priorities in preparing the schedule. If after considering priorities, a conflict still exists between the requests of two groups, a drawing may be prepared.

(E) Cancellation of reservations shall be made 45 days prior to the arrival date as listed on the permit or with the prior approval of the facility manager. Cancellation of reservations without prior approval or within 45 days of the arrival date shall result in the forfeiture of the deposit.

(2) Fees.

(A) A deposit fee shall be made payable to the Missouri Department of Natural Resources upon confirmation of the reservation. The director shall establish the deposit fee.

(B) The director of the Department of Natural Resources shall approve fee schedules for the use of group camps and facilities.

(3) Check-In and Checkout Procedures.

(A) Groups shall check into camp no later than 3:00 p.m. on the date of arrival stated on the letter of confirmation. Groups shall check out of the camp no later than 3:00 p.m. on the date of departure stated on the letter of confirmation. Groups arriving after the time indicated on the group camp confirmation letter may be charged an hourly rate for each hour they are late. Groups checking out of camp after the time indicated on the confirmation permit may be charged for an additional day. Group camp minimums and appropriate utility fees will be charged for late checkouts. Exceptions shall not be made without prior approval from the facility manager.

(B) At the time of check-in, the camp director shall have in their possession a copy of the confirmation permit and group camp policy manual.

(C) The camp director shall arrive at the park prior to the group. The camp director shall check in with the designated park representative at the park office. Together they shall make an inventory of the facilities. The inventory shall be signed by the camp director and kept in the park office. Campers shall not be permitted to move into the cabins until the inventory is completed.

(D) The camp director and park representative shall make an inventory of the camp after all campers have vacated the buildings. Any damages or shortages shall be checked against the inventory made at check-in. The rental group shall be charged for any damages or shortages occurring during their stay at camp.

(E) Charges for damages or shortages and the rental charges, less deposit, shall be paid at the time of departure. Checks shall be made payable to the Missouri Department of Natural Resources. Rental groups shall be charged for the amount of utilities used. Prior arrangements for delayed payment may be made with the

facility manager, when approved by the district supervisor, not to exceed 30 days from time of departure.

(4) Staffing.

(A) The using organization shall provide minimum supervision consisting of a camp director and a ratio of counselors to campers that conforms to minimum standards established by the American Camping Association, as well as necessary qualified personnel for all phases of the camp program.

(B) Campers shall be supervised at all times.

(5) General Policy.

(A) The division shall close a camp and cancel a group's reservation at the time that use of the facilities is found to be detrimental to the health and safety of the campers. A camp shall be closed at the discretion of the division director if the group's program is not in keeping with the mission and objectives of the Department of Natural Resources or the group refuses to abide by the rules established by the Division of State Parks. In these cases, all deposits shall be forfeited and all fees incurred to date shall be paid upon departure.

(B) User groups shall maintain the facilities assigned, including grounds, during their stay at camp and shall leave them clean. The camp director shall ensure they are clean and hazard free. S/he shall report any facility in need of repair to the facility manager.

(C) Representatives of the division shall inspect the kitchen as often as necessary. Groups shall be required to meet the laws and regulations governing food services as set forth by the Missouri Department of Health. If the using group fails to comply with the standards set forth by the Department of Health, the division shall close that facility.

(D) Intoxicating beverages and/or non-intoxicating beer shall not be allowed without written authorization from the facility manager.

(E) Outdoor fires shall be permitted only by approval and as designated by the facility manager. No other fires shall be started except in fireplaces provided for that purpose. No fires shall be left unattended.

(F) Groups wishing to have a rifle or archery range activity within the park shall request written permission from the facility manager.

(G) No alterations, changes, or additions shall be made to existing facilities. No building shall be constructed; no tents erected; or house or travel trailers parked within the camp area without written permission from the facility manager.

(H) All users of group camp swimming pools shall require the presence of a lifeguard who holds an American Red Cross LifeGuard Certificate or equivalent.

(I) Regulations governing the use of a group camp swim area are as follows:

1. All registered youth groups must have a lifeguard, who holds a senior or instructor's lifesaving certificate or equivalent, present during any use of the designated swim area;
2. Registered adult groups may swim without a lifeguard present;
3. Children accompanying a registered adult group must have an adult present when swimming; and
4. All users must comply with posted rules and regulations.

(J) All buses and cars are to be driven only on the entrance road and parked in the lots provided. Only in case of emergency will they be allowed on service roads or within cabin areas.

(K) The camp director shall have transportation available at all times.

(L) Permittee waives and releases all claims against the state of Missouri for any damage to person or property arising from the exercise of the privileges granted by the facility permit.

AUTHORITY: section 253.035, RSMo 2000. This version filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed June 10, 1981, effective Sept. 11, 1981. Amended: Filed Dec. 14, 1983, effective March 12, 1984. Amended: Filed March 18, 1987, effective July 23, 1987. Rescinded and readopted: Filed Oct. 26, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—Parks, Recreation and Historic
Preservation
Chapter 2—State Parks Administration**

PROPOSED RESCISSION

10 CSR 90-2.060 Outdoor Education Center. This rule established the procedures to allow disabled individuals to enjoy state park recreational activities.

PURPOSE: The Department of Natural Resources is proposing to rescind this rule due to the significant changes in the original text and for purposes of clarity.

AUTHORITY: section 253.035, RSMo 1986. This version filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed June 10, 1981, effective Sept. 11, 1981. Amended: Filed March 18, 1987, effective July 23, 1987. Rescinded: Filed Oct. 26, 2000.

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

PRIVATE COST: This proposed rescission will not cost private entities more than \$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 Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration**

PROPOSED RULE

10 CSR 90-2.060 Organized Group Center

PURPOSE: This rule establishes the procedures, fees and limitations of this facility to provide persons with disabilities the opportunity to enjoy the recreational activities afforded other segments of the general public.

(1) Application Procedures.

(A) Any group that is organized may apply to reserve the center.

1. Completed applications for groups of disabled or inclusionary groups (disabled/non-disabled) must be received at the park, in which the center is located, as much as but no more than eleven months in advance of the date applied for. Submitted applications will be grouped into the center schedule in three four-month blocks beginning the first of May, September, and January. For example, if the arrival date falls within the blocked months of May, June, July, August, the application must be received by the end of August the previous year. Priority shall be given to applications with the earliest postmark within that period.

2. Completed applications for non-disabled user groups will be accepted starting January 31, and July 31. Reservations will be made if disabled groups have not filled those dates. Those applications with the earliest postmark will be filled first.

3. The center's schedule shall be set not later than September 30 for the May through August block; January 31 for the September through December block; and May 30 for the January through April block. The center administrator shall then notify applicants within two weeks after each of the above dates in which schedules are set of the availability/confirmation/denial. In the event of duplicate requests, the center administrator has the right to consider second and third priorities in preparing the schedule. If after considering priorities, a conflict still exists between the requests of two groups, a drawing may be prepared.

(B) The center shall be operated year round.

(C) Applications for center use may be obtained from the center administrator. Reservations requested past the application due dates may be made by calling the administrator who will log and hold the dates for two weeks. Applications and deposits must be received within this time period to finalize the reservation. The reservation is approved on a first-come first-served basis unless a schedule conflict occurs.

(D) Rental Priorities.

1. Organized groups of youths with disabilities.
2. Organized groups of adults with disabilities.
3. Families with children who are disabled.
4. Adults being trained to work with those who are disabled.
5. Organized groups that mainstream disabled with non-disabled.
6. Other groups will be considered on a space-available basis.

(E) The center administrator shall assign cabins to all groups.

(2) Fees.

(A) A deposit fee must accompany each application with the exception of state agencies. The center administrator shall establish the amount of the deposit fee. Groups canceling less than 60 days prior to their confirmed reservations shall forfeit their deposit fee.

(B) A daily basic fee is charged for all persons using the center. Fees for the use of the center and its facilities shall be established by the director of the Department of Natural Resources. The center administrator shall determine incidental charges including food menus and costs, labor and materials for clean-up and repairs.

(C) Groups checking in shall tour the center with a member of the center staff. On checking out, groups shall tour the center with a center staff member again to check for cleanliness and damages. Repairs and replacement items needed due to misuse by members of the group shall be charged to the group.

(D) The basic fee, less the deposit, and any charges for damages or cleaning will be billed at the end of the session. Fees must be paid within 15 days after receipt of the bill—unless otherwise specified in a contract for payment as set by the camp administrator. Checks shall be payable to Department of Natural Resources, Babler State Park.

(3) Staffing. The using organization shall provide minimum supervision of at least one adult (18 years of age or older) for eight persons under 18 years, or as otherwise proposed by the organizations governing standards, as well as necessary qualified personnel for all phases of the camp program. If the group wishes to use the pool, at least one person with American Red Cross, YMCA, or Boy Scouts of America lifeguard certification must be present when the pool is in use. A copy of that certification must be given to the center administrator before the pool may be used.

(4) Check-In and Checkout Procedures.

(A) All groups shall check into the center at the appointed times as previously arranged with the center administrator. Checkout shall be before noon unless otherwise arranged with the center administrator. A day use fee will be charged after 12:00 p.m.

(B) Campers shall not be permitted to move into the cabins until the group leader/director and a member of the center staff have completed the tour of the center.

(C) Groups using the center must have transportation available at all times. The group staff will be trained in first aid.

(5) General Policy.

(A) The division shall close the center and cancel a group's reservation at such time that the use of the facilities is found to be detrimental to the health or safety of the users. In these cases the advance deposit shall be forfeited. Thirty days before scheduled arrival at camp each rental group shall submit a written outline of its proposed camp program to the center administrator. If this is not received, the center administrator shall cancel the group and its deposit will be forfeited. The center administrator shall reject any part of the proposed program that does not comply with the goals and objectives of the center.

(B) Smoking shall be permitted in designated areas only. No smoking shall be allowed in buildings. The division shall close the camp and cancel a group's reservation at such time that the use of the facilities is found to be detrimental to the health and safety of the campers. The center shall be closed at the discretion of the camp administrator if in his/her opinion s/he feels that the group's program is not in keeping with the stated purpose of the center. In these cases the advance deposit shall be forfeited. User groups shall keep the facilities assigned, including grounds, during their stay at the center clean and free of hazards. The camp director/leader shall make daily inspections of all facilities and grounds to assure that they are clean and hazard free and report any facility in need of repair to the camp administrator.

(C) Intoxicating and nonintoxicating liquors are not allowed in the center except by permission from the center administrator.

(D) Fires shall be built in the designated areas only.

(E) All cars and buses shall be parked in the parking lots. No vehicles, other than emergency vehicles, may drive through the center.

(F) Education center organized groups shall adhere to all applicable state laws and state park regulations.

(G) Group size shall not exceed the limits of the site as set by the Department of Natural Resources, Division of State Parks; local fire and health codes.

AUTHORITY: section 253.035, RSMo 2000. This version filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed June 10, 1981, effective Sept. 11, 1981. Amended: Filed March 18, 1987, effective July 23, 1987. Rescinded and readopted: Filed Oct. 26, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration**

PROPOSED RULE

10 CSR 90-2.070 Fencing on Park-Owned Property

PURPOSE: This rule is established to provide procedures and guidelines in considering requests by adjacent landowners to fence common boundaries for purposes of preventing intrusion from livestock or commercial game.

(1) Fencing on Park-Owned Property. The division director shall have the authority to fence any state park or historic site or parts thereof when fencing is essential for the use, care and preservation of the park or park lands in question.

(2) The division may participate in fencing park and historic site boundaries for the purpose of preventing intrusion from livestock or commercial game in accordance with Chapter 272, RSMo. Fencing requests shall be submitted in writing and approved by the director or his/her designee. The division's procedures for participating in fencing of park and historic site boundaries for this purpose are as follows:

(A) All fencing requests shall be directed to the Missouri Department of Natural Resources, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102, (800) 334-6946.

(B) A "Fencing Request Form" shall be completed by the landowner and submitted to the address above.

(C) Division personnel shall conduct an on-site inspection to determine need, natural and cultural resource impacts, fencing materials as defined in Chapter 272, RSMo, and reasonable cost of the fencing materials.

(D) The landowner shall receive written notification of approval or denial of their request from the division within 60 days of receipt of the Fencing Request Form at the above division address.

1. If approved, the landowner shall be responsible for fence construction and to utilize fence construction methods that do not damage trees, structures, soil, wetlands, habitat for sensitive species, geologic, cultural, historic, and other resources that occur within the park or historic site boundary. Fence construction methods shall not employ modification of soil or debris elevations that drain wetlands or cause the impoundment of water on property owned by the department. The fence must be located on the precise boundary line to the extent that the line can be identified or verified. The district supervisor in consultation with the Operations and Resource Management Program shall approve in writing any variances to these requirements.

2. The division, at its own expense, will provide all fence construction materials to the landowner and shall monitor the construction activities to ensure compliance with this section. The cost of fence material shall constitute the department's share of costs to provide an enclosure as provided for in 272.020 and 272.060, RSMo.

3. The landowner and its successors are responsible for maintaining the fence, which shall include removing brush, vines, woody regrowth or resprouting of approved cut trees on state park property at no greater a distance than three feet inside the park

boundary. The landowner is not permitted to access park property with brushhogs, tractors, heavy equipment, ATVs, motorcycles, or any other vehicle of any kind without permission from the park or historic site facility manager. The landowner is not permitted to apply any herbicides for purposes of killing or controlling vegetation on the park side of the boundary, or which may drift onto park vegetation without permission of the park facility manager. The landowner is permitted to trim back overhanging branches at the point immediately above the park boundary line and to a height of eight feet above the ground.

4. No fencing constructed under this section shall be removed without the written consent of the division, except to temporarily make repairs to said fence.

(3) The division shall not participate in fencing saltpeter works, cotton gins, or lands upon which poisonous crops are planted; nor shall the division incur costs when other applicable laws or judgments require an individual landowner to fence their own land.

(4) Landowners who attempt to fence department-owned land by moving fencing onto department-owned property without the consent of the division thereby deny public use of such fenced-in lands or incur damage to park property and/or natural and cultural resources.

AUTHORITY: section 253.035, RSMo 2000. Original rule filed Oct. 26, 2000.

PUBLIC COST: This proposed rule may cost state agencies between zero and \$819,000 in the aggregate during the life of the rule, notwithstanding increases in material costs per mile. Potential costs depend on whether adjacent landowners submit requests to construct fencing along park boundaries. See fiscal note.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate as it is the adjacent landowner's option to decide whether to construct a common boundary fence. Currently, construction of fences to enclose livestock and commercial game, including labor, materials, and maintenance, is the responsibility of the adjacent landowner; thus, adopting this proposed rule would save adjacent landowners the cost of materials, providing the fence is constructed as defined in 272.020, RSMo.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Attn: Paul Nelson, Division of State Parks, P.O. Box 176, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 10 -Missouri Department of Natural Resources
Division: 90-State Parks
Chapter: State Parks Administration
Type of Rulemaking: New Rule (Fencing on State Park Property)
Rule Number and Name: 10 CSR 90-2.070

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by affected entities:
1	Division of State Parks	Zero to \$819,000

III. WORKSHEET:

The state park system contains approximately 950 miles of "shared" boundaries. This estimate does not include the Katy Trail State Park because this area is already fenced. Fencing costs are based on a four-strand barbed wire fence with posts spread 12 to 16 feet apart (Section 272.455.1). Typically, the cost to provide materials for this type of fence is 34 cents per foot. The potential cost to the department is approximately \$819,000 (1/2 of 34 cents per foot X 900 miles [\$1,638,000] multiplied times 50% X 5,280 ft./mile) to fence the shared boundaries of the state park system.

IV. ASSUMPTIONS:

900 miles of shared boundary assuming an average of 10.81 miles of unfenced boundary for all typical state parks that equals 832.37 miles and 67.68 unfenced miles at Lake of the Ozarks State Park

The department assumes no ongoing costs after making the initial one-time materials cost for constructing the fence. Since Section 272.490.1 allows adjoining landowners to agree that no fence is needed between properties, the department's one-time costs are shown as ranging from \$0 to approximately \$819,000.

The department assumes from estimated calculations that 29% of the park system's boundaries are already fenced. Further, the department estimates that roughly one half of the 900 miles of unfenced shared boundaries would be specifically subject to livestock or

commercial game use; thus, the less 50% reduction in the above worksheet formula. The actual percentage of anticipated requests for fencing would likely be less.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers**

PROPOSED AMENDMENT

11 CSR 75-3.020 Eligibility for Certification The department is amending sections (2) and (3).

PURPOSE: This rule detailed old language that no longer applied to certification of a bailiff and a certified peace officer.

(2) Effective August 28, 1994, all bailiffs must become certified by the director or his/her designated representative within one (1) year of employment or appointment. To be considered for basic or special bailiff certification, the applicant must be employed or appointed by a Missouri political subdivision, a United States citizen, [a resident of Missouri,] at least twenty-one (21) years of age and hold at least a high school diploma or its equivalent.

(3) To be considered for basic or special peace officer certification, the applicant must be a commissioned, full-time Missouri peace officer, employed by a duly constituted law enforcement agency of Missouri or any Missouri political subdivision, a United States citizen, [a resident of Missouri,] at least twenty-one (21) years of age and hold at least a high school diploma or its equivalent. These requirements will not apply to a peace officer serving as a federal military peace officer on a federal military installation.

AUTHORITY: sections 590.105, [RSMo Supp. 1999 and] 590.110, 590.130 and 590.150, RSMo [1994] 2000. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 23, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, Mo 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 41—General Tax Provisions**

PROPOSED AMENDMENT

12 CSR 10-41.010 Annual Adjusted Rate of Interest. The department proposes to amend section (1).

PURPOSE: Under the Annual Adjusted Rate of Interest (section 32.065, RSMo), this amendment establishes the 2001 annual adjusted rate of interest to be implemented and applied on taxes remaining unpaid during calendar year 2001.

(1) Pursuant to section 32.065, RSMo the director of revenue, upon official notice of the average predominant prime rate quoted by commercial banks to large businesses, as determined and

reported by the Board of Governor's of the Federal Reserve System in the Federal Reserve Statistical Release G.13(415) for the month of September of each year, has set by administrative order the annual adjusted rate of interest to be paid on unpaid amounts of taxes during the succeeding calendar year as follows:

Calendar Year	Rate of Interest on Unpaid Amounts of Taxes
1995	12%
1996	9%
1997	8%
1998	9%
1999	8%
2000	8%
2001	10%

AUTHORITY: section 32.065, RSMo [Supp. 1998] 2000. Emergency rule filed Oct. 13, 1982, effective Oct. 23, 1982, expired Feb. 19, 1983. Original rule filed Nov. 5, 1982, effective Feb. 11, 1983. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Oct. 31, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Oct. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105-0629. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 3—Local Assessment of Property and
Appeals From Local Boards of Equalization**

PROPOSED RULE

12 CSR 30-3.075 Receipt of Evidence Indicating Value Greater than Assessor or Board—First Class Charter Counties

PURPOSE: This rule explains the procedures which hearing officers are to follow relative to evidence offered by assessors in first class charter counties which indicates a property value greater than the value that has been determined by the board of equalization or the assessor previously.

(1) In any case in a first class charter county or a city not within a county, where the assessor presents evidence which indicates a valuation higher than the value finally determined by the assessor or the value determined by the board of equalization, whichever is higher, for that assessment period, such evidence will only be received for the purpose of sustaining the assessor's or board's valuation, and not for increasing the valuation of the property under appeal.

AUTHORITY: sections 138.060 and 138.430, RSMo 2000. Original rule filed Oct. 24, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Rosemary P. Kaiser, Administrative Secretary, State Tax Commission, P.O. Box 146, Jefferson City, MO 65102-0146, (573) 751-2414. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 73—Missouri Board of Nursing Home
Administrators
Chapter 2—General Rules

PROPOSED RULE

13 CSR 73-2.051 Retired Licensure Status

PURPOSE: This rule establishes the procedures by which a currently licensed administrator may retire his/her license and the procedures for reactivating the license, pursuant to section 344.105, RSMo.

(1) Any currently licensed nursing home administrator may request to retire the license if s/he has maintained an active Missouri license at least ten (10) years and has retired from the practice of nursing home administration.

(2) Licensees interested in making application must submit the following information to the Board:

(A) A fee of twenty-five dollars (\$25) made payable to the Division of Aging;

(B) His/her original wall license and all other evidence of licensure; and

(C) One of the following:

1. An affidavit that includes the date on which the licensee retired from such practice and such other facts the Board may require to verify the retirement; or

2. Sign the request for retired status that appears on the nursing home administrator license renewal application and return such application to the Board prior to the active license expiring on June 30 of the year of renewal.

(3) Information provided in the request for retired status shall be given under oath subject to the penalties for making a false affidavit. A sample Affidavit Requesting Retired Licensure Status is hereby incorporated by reference as part of this rule.

(4) The Board shall issue a new license to the licensee indicating that the licensee is retired once the Board has received the required information and has approved the request for retired licensure status.

(5) A retired license may be reactivated within five (5) years of the granting of the retired license by filing the following information with the Board:

(A) An affidavit requesting reactivation of the retired license;

(B) A fee of fifty dollars (\$50) made payable to the Division of Aging; and

(C) Satisfactory evidence of the completion of twenty (20) clock hours of board approved continuing education (including clock hours carried forward from the last renewal date), as described in 13 CSR 73-2.050(2)(A) and (B), for each calendar year the license

was retired. All clock hours must be completed after the granting of the retired license or completed within the same licensure year the licensee was granted the retired license. The board may prorate the required clock hours for any portion of a calendar year as follows:

1. Ten (10) months or more, but less than twelve (12) months—twenty (20) clock hours (including a minimum of five (5) patient care hours);

2. Seven (7) months or more, but less than ten (10) months—fifteen (15) clock hours (including a minimum of five (5) patient care hours);

3. Four (4) months or more, but less than seven (7) months—ten (10) clock hours (including a minimum of two and one-half (2.5) patient care hours); or

4. Less than four (4) months—five (5) clock hours (including a minimum of two and one-half (2.5) patient care hours).

(6) If more than five (5) years have passed since the issuance of a retired license to a licensee, the licensee shall follow the procedures for initial licensure stated in section 344.030, RSMo.

(7) No person shall act or serve in the capacity of a nursing home administrator in this state or hold himself or herself out as a nursing home administrator if his or her license is retired.

(8) Retired licensees shall remain subject to disciplinary action for violations of Chapter 344, RSMo and the rules promulgated thereunder.

AUTHORITY: section 344.070, RSMo 2000. Original rule filed Oct. 24, 2000.

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

PRIVATE COST: The private entity cost for this proposed rule is estimated at \$32,850 for the life of the rule (10 years). This cost is based upon the assumption that all licensees who qualify for retired status will apply and pay the \$25 fee and, all those who retire will reactivate the license and pay the \$50 fee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Nursing Home Administrators, Diana Love, Executive Secretary, 615 Howerton Court, P.O. Box 1337, Jefferson City, MO 65102, (573) 751-3511. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Board of Nursing Home Administrators
FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 13 - Department of Social Services

Division: 73 - Missouri Board of Nursing Home Administrators

Chapter: 2 - General Rules

Type of Rulemaking: Proposed Rule

Rule Number and Name: 13 CSR 73-2.051

Prepared October 2, 2000 by the Board of Nursing Home Administrators of the Department of Social Services, Division of Aging.

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected are retired licensed nursing home administrators.

Charts A and B reflect a combined total fiscal impact on the private entities of \$32,850.00

CHART A

Note: The fee reflected in Chart A is established in Section 344.105, RSMo and was addressed in the fiscal note attached to House Bill 1591. These costs were not created by this proposed rule.

Estimate of the number of entities by class that may be affected by the adoption of the proposed rule:	Estimate as to the cost of compliance with the rule by the affected entities:
	\$25.00 fee to retire the license
231 in FY 2001	\$5,775.00
12 in FY 2002	\$300.00
33 in FY 2003	\$825.00
12 in FY 2004	\$300.00
30 in FY 2005	\$750.00
33 in FY 2006	\$825.00
24 in FY 2007	\$600.00
21 in FY 2008	\$525.00
18 in FY 2009	\$450.00
24 in FY 2010	\$600.00

The estimated cost to the private entities over the life of the rule (10 years), is \$10,950.00.

CHART B

Note: The fee reflected in **Chart B** was created by this proposed rule.

Estimate of the number of entities by class that may be affected by the adoption of the proposed rule:	Estimate as to the cost of compliance with the rule by the affected entities:
	\$50.00 fee to reactivate license
0 in FY 2001	\$0.00
231 in FY 2002	\$11,550.00
12 in FY 2003	\$600.00
33 in FY 2004	\$1,650.00
12 in FY 2005	\$600.00
30 in FY 2006	\$1,500.00
33 in FY 2007	\$1,650.00
24 in FY 2008	\$1,200.00
21 in FY 2009	\$1,050.00
18 in FY 2010	\$900.00
24 in FY 2010	\$1,200.00

The estimated cost to the private entities over the life of the rule (10 years) is \$21,900.00.

III. WORKSHEET

Within the FY2000 total administrator population, 690 have maintained an active license for at least ten years and would be eligible for retired licensure status. A random sampling was completed on one-third (230) of the 690. We assumed that an average age for retirement is 60 years of age and that the same was extrapolated across the population. Therefore, in FY2001 we estimate that a total of 231 (77 x 3) individuals would meet the criteria for a retired license. This same formula was applied to the remaining fiscal years and was based upon actual birth years of the sample population.

IV. ASSUMPTIONS

All licenses expire on June 30, each year. The licensee must file a license renewal application, a \$50.00 fee and evidence of attending 20 clock hours of continuing education. Licensees who have maintained an active license for at least 10 (ten) years and who are retiring from the practice have three options: 1) remain active by meeting the renewal requirements and paying the \$50.00 fee; 2) allow the license to expire, or; 3) request a retired license by filing the affidavit and paying a \$25.00 fee. If all eligible licensees apply for retired status upon turning 60 years of age, the fiscal impact is as reflected in Chart A.

Chart B reflects the fiscal impact if all licensees who have been placed on retired status choose to reactivate the license. This cost reflects the reactivating fee of \$50.00 and does not attempt to estimate the cost of attending continuing education programs required at the time of reactivating. There are too many variables to quantify the cost.

Title 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of
Missouri
Chapter 6—The Nonteacher School Employee
Retirement System of Missouri

PROPOSED AMENDMENT

16 CSR 10-6.045 Reinstatement and Credit Purchases. The board is amending section (19).

PURPOSE: This amendment sets forth provisions relating to the purchase of membership service credit for maternity and paternity leave pursuant to section 169.655, RSMo.

(19) The following provisions apply with respect to a purchase of credit for maternity/[] or paternity leave pursuant to section 169.655, RSMo:

(A) [The leave must be due to a birth, legal adoption, or terminated pregnancy by or of the member or the member's spouse;] A period of leave shall be considered maternity or paternity leave for which membership service credit may be purchased if:

1. The leave was unpaid;
2. The leave related to a natural birth, legal adoption, or terminated pregnancy by the member or the member's spouse or significant other;
3. The member was employed in a position covered by the Non-Teacher School Employee Retirement System at the time the leave relating to the initial natural birth, legal adoption, or terminated pregnancy began;
4. The member provides a notarized affidavit signed by the member stating that the leave was maternity or paternity leave;
5. The member provides a certified copy of a birth certificate, or certification of adoption, or physician's certification of termination of pregnancy, which indicates that the event occurred within a reasonable time before or after the period of maternity or paternity leave began; and
6. The member returns to employment in a position covered by the Non-Teacher School Employee Retirement System;

(B) [Confirmation must be provided from the district which granted the leave that the leave was maternity/paternity leave;] The maternity or paternity leave for which membership service credit may be purchased shall terminate upon the member's return to covered employment and may not exceed one (1) year for each natural birth, legal adoption, or terminated pregnancy; and

(C) [Confirmation must be provided from the district which granted the leave of the beginning and ending dates of the leave.] A member may elect to purchase some or all of the period of maternity or paternity leave for which the member is eligible, but a member may not purchase more than a total of four (4) years of membership service credit based on maternity or paternity leave over the member's career.

AUTHORITY: section 169.610, RSMo [Supp. 1998] 2000. Original rule filed June 15, 1994, effective Nov. 30, 1994. Amended: Filed June 14, 1995, effective Dec. 30, 1995. Amended: Filed Aug. 15, 1996, effective Feb. 28, 1997. Amended: Filed Oct. 24, 1996, effective April 30, 1997. Amended: Filed Oct. 25, 1999, effective April 30, 2000. Amended: Filed Oct. 30, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Non-Teacher School Employee Retirement Systems of Missouri, Joel Walters, Executive Director, P.O. Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.