

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the 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.

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

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

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

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 70—Plant Industries  
Chapter 13—Boll Weevil Eradication**

**PROPOSED RULE**

**2 CSR 70-13.045 Registration of Apiaries**

*PURPOSE: This rule states that apiaries within a mile of the eradication zone shall be registered by a specific date, providing site-specific locations and identification on each hive within the apiary.*

(1) Every person or owner who is in possession of an apiary, which is located within the eradication zone or within one (1) mile of that zone, in the counties of Butler, Dunklin, Mississippi, New

Madrid, Pemiscot, Scott, and Stoddard shall register each apiary location with the Missouri Department of Agriculture. Every person required to register under this regulation, shall do so on or before the first day of May of each year in which they own, maintain, or are in possession of an apiary.

(2) Every person who moves an apiary into the eradication zone or within one (1) mile of that zone or otherwise comes into possession of an apiary or hive that is located within the eradication zone after the first day of May, shall register with the Missouri Department of Agriculture, the number of and location of apiaries prior to movement into or upon possession within the eradication zone counties.

(3) Every person or owner who is in possession of an apiary, shall pay, an annual registration fee of five dollars (\$5) per apiary location up to a maximum of three hundred dollars (\$300) to the Missouri Department of Agriculture at the time of registration.

(4) No person shall maintain any apiary which is not registered pursuant to this article within one (1) mile of the eradication zone. Each registration is valid until January 31 of the following year.

(5) Every person or owner who is in possession of an apiary, within the eradication zone or within one (1) mile of that zone shall also provide the global position system (GPS) coordinates of each apiary location. The GPS coordinates shall be updated immediately upon relocation of the apiary. Failure to provide accurate GPS coordinates will void apiary registration.

(6) No person shall maintain an apiary on premises other than that of his or her residence unless the apiary is identified as follows:

(A) By a sign prominently displayed in each apiary that states the name of the owner or person responsible for the apiary, his or her address and telephone number, or if he or she has no telephone a statement to that effect. Each hive within the apiary shall be identified by name or brand.

(7) No person shall locate or maintain an apiary on private land not owned or leased by the person unless the person has approval from the landowner or lessee. The approval shall include the name, address and phone number of the person granting approval and shall be included with the registration.

*AUTHORITY: section 263.505, RSMo 2000. Emergency rule filed April 12, 2002, effective April 22, 2002, expires Jan. 30, 2003. Original rule filed April 12, 2002.*

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

*PRIVATE COST: This proposed rule will cost private entities an estimated nine hundred forty-eight dollars (\$948). See attached fiscal note.*

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

**FISCAL NOTE**

**PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	2 CSR 70-13.045 Registration of Apiaries
Type of Rulemaking:	Proposed Rule

**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:	Estimated in the aggregate as to the cost of compliance with the rule by the affected entities:
12	Businesses and individuals	\$948.00

**III. WORKSHEET**

# locations	Registration fees	Signage Cost	
170	\$300.00	\$340.00	
1	\$5.00	\$2.00	
5	\$25.00	\$10.00	
26	\$130.00	\$52.00	
1	\$5.00	\$2.00	
1	\$5.00	\$2.00	
4	\$20.00	\$8.00	
4	\$20.00	\$8.00	
2	\$10.00	\$4.00	
214	\$520.00	\$428.00	<b>\$948.00</b>

**IV. ASSUMPTIONS**

Figures on apiary location were obtain from 2001 data. Nine businesses and individuals were identified by the program in 2001. It is estimated that as many as 12 businesses and individuals could be affected by the rule in 2002. Apiary locations are not anticipated to increase in 2002.

**Title 2—DEPARTMENT OF AGRICULTURE**  
**Division 70—Plant Industries**  
**Chapter 13—Boll Weevil Eradication**

**PROPOSED RULE**

**2 CSR 70-13.050 Cotton/Bee Protection Area**

*PURPOSE:* This rule states that all persons in possession of apiaries within the eradication zone or within one (1) mile of the eradication zone shall relocate apiaries out of the eradication zone during cotton bloom or take necessary action to protect bees and defines the policy used during the eradication program.

(1) Beekeepers with apiaries located within a cotton/bee protection area of the eradication zone will be notified of impending spray applications. Upon notification beekeepers shall move apiaries out of the cotton/bee protection area in the eradication zone prior to June 30 of each year. Beekeepers who chose not to move prior to June 30 shall be advised to protect apiaries by confining bees as described in MU publication G7600.

(A) Beekeepers not moving apiaries will be responsible for losses caused by bees foraging on treated cotton and must indicate on the apiary registration form that apiaries will not be removed from the cotton/bee protection area of the eradication zone by the specified date.

(B) The area within each field planted to cotton and within one (1) mile of any cotton planted is designated as a cotton/bee protection area during the cotton bloom period.

(C) The cotton bloom period, in any cotton field for the purposes of declaring bloom and label interpretation, shall be from July 1 until the first killing frost or defoliation of the cotton plants.

(2) Pesticide applications made in conjunction with the boll weevil eradication program during the cotton blooming period shall follow the procedures specified in the current version of the Boll Weevil Eradication Program Honeybee Policy as designated by the Missouri Department of Agriculture.

(3) Each beekeeper will be notified in advance of applications of pesticides in accordance with the Boll Weevil Eradication Program Honeybee Policy and shall file an agreed upon method of notification with registration form with how, when and where he/she can be contacted.

(4) Each beekeeper with apiaries located within a cotton/bee protection area shall be notified at least twenty-four (24) hours in advance of spray applications in accordance with the Boll Weevil Eradication Honey Bee Policy.

*AUTHORITY:* section 263.505, RSMo 2000. Emergency rule filed April 12, 2002, effective April 22, 2002, expires Jan. 30, 2003. Original rule filed April 12, 2002.

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

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

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

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 150—State Board of Registration for the Healing Arts**  
**Chapter 2—Licensing of Physicians and Surgeons**

**PROPOSED AMENDMENT**

**4 CSR 150-2.080 Fees.** The board is proposing to amend subsection (1)(B), add new language in subsection (1)(S), delete section (2) and renumber remaining sections accordingly.

*PURPOSE:* This amendment allows the board to change the fee assessed by the board to be equivalent to the fee assessed by the Federation of State Medical Boards. This amendment also allows the board to implement a fee to be paid by the licensee for a returned check.

(1) The following fees are established by the State Board of Registration for the Healing Arts:

(B) Special Purpose Examination Fee	[\$ 600.00]	<b>\$680.00</b>
(R) Duplicate License Fee		\$ 30.00[.]
(S) Returned Check Fee		<b>\$ 25.00</b>

[[2] Payment of any copying fees and search fees may be required before any information will be provided.]

[[3] (2) All fees are nonrefundable.

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

*AUTHORITY:* sections 334.090.2 and 334.125, RSMo 2000. Emergency rule filed July 1, 1981, effective July 11, 1981, expired Nov. 8, 1981. Original rule filed July 14, 1981, effective Oct. 11, 1981. Emergency amendment filed June 17, 1986, effective June 27, 1986, expired Oct. 25, 1986. Emergency amendment filed Oct. 24, 1986, effective Nov. 4, 1986, expired March 3, 1987. Amended: Filed Oct. 24, 1986, effective Jan. 30, 1987. Amended: Filed Feb. 5, 1990, effective June 30, 1990. For intervening history, please consult the *Code of State Regulations*. Amended: Filed April 5, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts, Attn: Tina Steinman, Executive Director, 3605 Missouri Boulevard, PO Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 220—State Board of Pharmacy**  
**Chapter 3—Negative Generic Drug Formulary**

**PROPOSED AMENDMENT**

**4 CSR 220-3.040 Return and Reuse of Drugs and Devices.** The board is proposing to amend section (2) and subsections (2)(B), (C) and (D) and delete section (3).

*PURPOSE: The purpose of this amendment is to insure the safety of the consumer by insuring the viability and integrity of medications that are returned and reused. This action is based on information provided by other state boards of pharmacy who are addressing this issue, as well as the Food and Drug Administration.*

(2) A pharmacist or pharmacy may receive **and reuse** drugs from long-term care facilities, hospitals, and hospice facilities (as regulated by the Department of Health, in 19 CSR 30-35.020 Hospices Providing Direct Care in a Hospice Facility), provided that the following conditions are met:

(B) The drugs were originally dispensed by the pharmacist or pharmacy to the facility delineated in section (2); *[and]*

(C) There is an established mechanism to trace the expiration date and the manufacturer's lot number of the drugs being returned./.; **and**

**(D) Only drug products dispensed in the original manufacturer's packaging that remains sealed in tamper-evident packaging may be reused.**

*[(3) Drugs accepted for return by a pharmacy, in accordance with section (2), may be redispensed only if the pharmacist or pharmacy ascertains that the package containing the redispensed drug meets the following criteria:*

*(A) U.S.P Standards or those of the manufacturer; and*

*(B) Complies with those standards outlined in 4 CSR 220-2.130 when prepackaged drugs are used.]*

*AUTHORITY: section 338.280, RSMo [1994] Supp. 2001. Original rule filed Dec. 12, 1983, effective May 11, 1984. Amended: Filed July 5, 1988, effective Nov. 11, 1988. Amended: Filed Sept. 2, 1997, effective April 30, 1998. Amended: Filed April 5, 2002.*

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

*PRIVATE COST: The private cost for this proposed amendment is estimated to be \$6,247,521 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.*

*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, PO Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 4 - Department of Economic Development

Division: 220 - Board of Pharmacy

Chapter: 3 - Negative Generic Drug Formulary

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 4 CSR 220-3.040 Return and Reuse of Drugs

Prepared September 5, 2001 by the Missouri Board of Pharmacy.

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate of the number of individuals who would likely be affected by the adoption of the proposed amendment</b>	<b>Classification by types of the individuals or business entities which would likely be affected</b>	<b>Estimated annual cost of compliance with the rule by the affected entities</b>
56,775	Occupied LTC Beds per the Division of Aging	<b>\$6,247,521.00</b>
	<b>Total annual cost for the life of the rule</b>	<b>\$6,247,521.00</b>

**III. WORKSHEET**

The following numbers/percentages shown on this worksheet are based on a survey sent to Class C: Long Term Care Pharmacies, with a 69% Return Rate.

Number of prescriptions dispensed annually	2,452,579
Number of prescriptions returned annually	171,477
Percentage of prescriptions which are returned	7%
Value of prescriptions returned	\$5,549,631
Number of beds	32,727

- Based on the survey results, a total of 2,452,579 prescriptions dispensed to 32,727 nursing home patients, equals approximately 75 prescriptions annually per patient.
- Number of prescriptions returned divided by the total number of prescriptions dispensed equals a 7.00% return rate (171,477 divided by 2,452,579 = 7%)

- 75 prescriptions dispensed annually per patient, x 7.00% return rate, = 5.25 prescriptions per patient.
- It is estimated that of these 5.25 prescriptions, 50% of them will be ineligible for return, i.e. 2.63, which equals 2.62 prescriptions, rounded to 3 prescriptions.
- 3 prescriptions per patient x \$36.68 average cost of each prescription, x 56,775 nursing home beds (number provided by the Division of Aging) = \$6,247,521.00

#### **IV. ASSUMPTIONS**

- According to Division of Aging information, as of August 7, 2001, there were 56,775 occupied nursing home beds in Missouri.
- Under the present regulation, prescription drugs may be returned to the dispensing pharmacy for reuse under certain conditions.
- Under the proposed amendment, approximately 50% of the number of prescriptions (drugs) currently being returned to the pharmacy for reuse, will be ineligible for return and reuse, because of the requirement that only drugs packaged in manufacturer's original packaging can be returned and reused.
- The private entity cost for this proposed amendment is estimated to be \$6,247.521 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.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 255—Missouri Board for Respiratory Care  
Chapter 2—Licensure Requirements**

**PROPOSED AMENDMENT**

**4 CSR 255-2.050 Inactive Status.** The board is proposing to amend section (5), add a new section (6) and renumber the remaining section accordingly.

*PURPOSE: This amendment changes the requirements to renew an inactive license.*

(5) In addition to the requirements set forth in section (4) above, a licensee whose license is inactive for [*ten (10)*] **four (4)** years or more shall be required to successfully complete an entry level examination approved by the board prior to reactivation.

(6) The requirements of section (5) may be waived by the board if a licensee whose license has been inactive for four (4) or more years provides evidence to the board that s/he has been actively engaged in the practice of respiratory care in another state for at least two (2) consecutive years immediately prior to making application to renew in Missouri. "Actively engaged" shall mean that the applicant worked a minimum of twenty (20) hours per week in a clinical setting. If the board grants a waiver under this section, the applicant shall comply with the requirements of section (4).

[[6]] (7) Applicants that are approved for inactive status renewal will receive one (1) license. Duplicate licenses may be provided upon payment of the appropriate fee pursuant to rules promulgated by the board.

*AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.910 and 334.920, RSMo 2000, and 334.880.1, RSMo Supp. 2001. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999, effective June 30, 2000. Amended: Filed Jan. 31, 2001, effective Aug. 30, 2001. Amended: Filed April 5, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 255—Missouri Board for Respiratory Care  
Chapter 2—Licensure Requirements**

**PROPOSED AMENDMENT**

**4 CSR 255-2.060 Reinstatement.** The board is proposing to amend sections (3) and (4) and add a new section (5) and renumber the remaining sections accordingly.

*PURPOSE: This amendment changes the requirements to renew an inactive license.*

(3) A licensee whose license has been lapsed for more than thirty (30) days but less than [*three (3)*] **four (4)** years may obtain renewal of that license by mailing the completed lapsed renewal application to the board. The lapsed renewal application shall be accompanied by the late renewal fee and the renewal fee for each year the license was lapsed in addition to the current renewal fee. In addition to verification of completion of [*the required continuing education hours*] **twenty-four (24) hours of approved continuing education within the preceding two (2) years**, the lapsed renewal application shall also include the following:

(4) Failure of the licensee to renew a license for a period of more than [*three (3)*] **four (4)** years after the expiration of the license, shall be treated in the same manner as a person who has never been licensed and must reapply for licensure under the licensing requirements in effect at the time the person applies to resume the practice of respiratory care. In addition, the applicant shall submit evidence of completion of at least twenty-four (24) hours of approved continuing education within the preceding two (2) years.

(5) The requirements of section (4) may be waived by the board if a licensee whose license has been inactive for four (4) or more years provides evidence to the board that s/he has been actively engaged in the practice of respiratory care in another state for at least two (2) consecutive years immediately prior to making application to renew in Missouri. "Actively engaged" shall mean that the applicant worked a minimum of twenty (20) hours per week in a clinical setting. If the board grants a waiver under this section, the applicant shall comply with the requirements of section (3).

[[5]] (6) Following review by the board, the licensee shall be informed in writing of the decision regarding the application for licensure.

[[6]] (7) Licensees that are approved will receive one (1) license. Duplicate licenses may be provided upon payment of the appropriate fee pursuant to rules promulgated by the board.

*AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.910 and 334.920, RSMo 2000 and 334.870 and 334.880.2, RSMo Supp. 2001. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999, effective June 30, 2000. Rescinded and readopted: Filed Jan. 31, 2001, effective Aug. 30, 2001. Amended: Filed April 5, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 8—DEPARTMENT OF LABOR AND  
INDUSTRIAL RELATIONS  
Division 10—Division of Employment Security  
Chapter 5—Appeals**

**PROPOSED AMENDMENT**

**8 CSR 10-5.010 Appeals to an Appeals Tribunal.** The division proposes to amend section (2), delete section (3), revise and

renumber remaining sections, and delete the form which follows the rule in the *Code of State Regulations*.

*PURPOSE: The purpose of this amendment is to define terms used in this chapter.*

*[(2) An interested party means—*

*(A) The claimant, if any;*

*(B) Any employer or employing unit that has filed a timely protest in accordance with section 288.070, RSMo;*

*(C) Any employer or employing unit from whose employment the claimant was separated during a week of continued claim, other than a week during which an initial claim or a renewed claim was effective.*

*(D) Any employer or employing unit having a legal interest in any determination made under section 288.130, RSMo;*

*(E) Any person, employer or employing unit having a legal interest in any assessment made under section 288.160, RSMo; or*

*(F) The Division of Employment Security.]*

**(2) For purposes of these regulations, the following definitions apply:**

**(A) Agent**—The person authorized to act in a representative capacity for a claimant pursuant to Missouri Supreme Court Rule 5.29 and these regulations;

**(B) Appear** means that the participants—

1. Arrive at the physical location of the hearing at the time and location set forth on the notice of hearing; or

2. Provide telephone numbers as instructed on the notice of hearing within the designated time frame and answer at the time of the hearing;

**(C) Good cause**—For the purposes of sections 288.070.8 and 288.130.5, RSMo, and of this chapter, good cause shall be those circumstances in which the party acted in good faith and reasonably under all the circumstances;

**(D) Hearing officer**—The person responsible for ruling on procedural matters, conducting the hearing, and preparing a final appealable judgment from evidence presented in the hearing. The term hearing officer shall include the terms “Referee” and “Appeals Tribunal” as defined in section 288.030.1, RSMo;

**(E) Party**—The individual, agency or business entity which has taken action to become an interested party pursuant to 288.070, 288.130, and 288.160, RSMo;

**(F) Representative**—Any person acting in a representative capacity with regard to unemployment appeals as authorized by Chapter 288, RSMo, Missouri Supreme Court Rules, and these regulations. Depending on the context, the word is used to refer both to employer representatives and all persons authorized to act in a representative capacity in these matters;

**(G) Split hearings**—Those appeals hearings in which some parties and their witnesses may appear in person and others by telephone, by prearrangement with the hearing officer;

**(H) Telephone hearing**—An appeals hearing in which all participants appear by telephone;

**(I) Witness**—A person who is presented for testimony at a hearing by a party to an appeal.

*[(3) The term material witness means any person, employer or employing unit which is not an interested party to a determination under section (2) but which, nevertheless, has provided information which was used by the division in making its determination. The appeals tribunal, on written request by the material witness, will provide the material witness with a complimentary copy of the decision involving the material witness. The complimentary copy*

*shall not confer on the material witness any legal rights which the witness does not already have.]*

*[(4)] (3) Appeal to be Written.*

(A) Any signed, legible written notice filed by *[an interested]* a party in accordance with these *[rules]* regulations, which expresses disagreement with or otherwise indicates a desire to appeal a determination or redetermination, in the absence of a reconsideration by the deputy, shall constitute an appeal. An appeal must be signed by the claimant, the claimant’s authorized agent, the employing unit (including any officer or employee of it), or by a licensed attorney representing either the claimant or employing unit. **A person acting as a claimant’s authorized agent shall submit an authorization signed by the claimant as soon as that authorization occurs. The authorization must include the name, social security number and signature of the claimant and a statement that the named agent is acting on behalf of the claimant.**

(B) *[An interested]* Any party may file an appeal by using a printed appeal form available from the *[division]* **Division of Employment Security**. Use of the form is not mandatory; however, whatever instrument is used, it should also include the following information:

1. Name and Social Security account number of each claimant, if any, involved;

2. Name of the employer, if any, involved;

3. Date, issue number and subject matter of the determination; *[and]*

4. Statement of the reasons for disagreement with the determination.; **and**

**5. Signature of the appellant.**

(C) Failure to include all of the information listed in subsection *[(4)] (3)(B)* may result in **invalidation of the purported appeal** or unnecessary delay in processing the appeal and scheduling the hearing.

(D) Any signed, legible written notice filed by *[an interested]* a party in accordance with these *[rules]* regulations, which sets forth specifically and in detail the grounds upon which it is claimed the assessment is erroneous shall constitute a petition for reassessment. A petition for reassessment must be signed by the claimant, if any, the claimant’s authorized agent, the employing unit (including any officer or employee of it), or by a licensed attorney representing either the claimant or employing unit.

*[(5) Filing of Appeals and Petitions For Reassessment.]*

*[(A)] (4) Appeals to benefit or tax-related matters* and petitions for reassessment may be filed by mail or *[in person at the office of the division where the determination or assessment was made or at any office of the division.]* **facsimile transmission directed to the address set forth on the determination or petition. All appeals and petitions for reassessment must be signed by the appellant/petitioner or designated representative.**

*[(B) Appeals and petitions for reassessment may be filed by facsimile transmission (fax) at the office of the division where the determination or assessment was made or at any office of the division.]*

*[(6)] (5) Time Limit for Appeal.*

(A) An appeal to a determination or redetermination under section 288.070.4, RSMo shall be filed within thirty (30) calendar days of the date the determination or redetermination was delivered in person or mailed to the appellant’s last known address.

(B) An appeal to an *ex parte* determination or redetermination under section 288.130.*[3/4]* RSMo shall be filed within thirty (30) calendar days of the date of the mailing of the determination or redetermination to the party’s last known address or, in the absence of mailing, the date of personal service to the party.



(C) A petition for reassessment shall be filed within thirty (30) days of the date the assessment was mailed to the petitioner in accordance with section 288.160, RSMo or, in the absence of mailing, the date of personal service to the petitioner.

(D) An appeal or petition for reassessment shall be deemed to have been filed as of the date endorsed by the United States Post Office. In the absence of an endorsement by the United States Post Office, the appeal or petition for reassessment shall be deemed to have been filed on the date received by the division.

(E) Fax transmissions of appeals and petitions for reassessment that are received *[by an office of the division]* on a regular workday will be considered as filed on *[that day]* the date of receipt. A fax transmission received on a Saturday, Sunday or legal holiday will be considered filed on the next regular division workday. Date and time of receipt will be determined by the division's receiving fax machine. Persons filing by fax transmission must retain the receipt with the original document for reference by the *[appeals tribunal]* hearing officer if so requested.

(F) In computing any period of time prescribed or allowed by these rules, the date of the issuance of a determination, redetermination, assessment, order or decision shall not be counted. The last day of the period shall be counted unless it is a Saturday, Sunday or legal holiday; in which event, the period shall run until the end of the next day that is not a Saturday, Sunday or legal holiday. For the purpose of these rules and Chapter 288, RSMo, legal holiday means—:

1. Those dates designated public holidays by Chapter 9, RSMo; and

2. Any other day designated a public or legal holiday by the governor.

*AUTHORITY: sections 288.190 and 288.220.5, RSMo [Supp. 1997] 2000. Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. For intervening history, please consult the Code of State Regulations. Amended: Filed April 5, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Employment Security, Attn: Bonnie Keaton, PO Box 59; Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 8—DEPARTMENT OF LABOR AND  
INDUSTRIAL RELATIONS  
Division 10—Division of Employment Security  
Chapter 5—Appeals**

**PROPOSED AMENDMENT**

**8 CSR 10-5.015 Appeal Hearings and Procedures.** The division proposes to amend sections (1) through (8), delete section (9), revise and renumber remaining sections.

*PURPOSE: The purpose of this amendment is to establish procedures for the disposition of preliminary matters and for the conduct of hearings including hearings in which any witness participates by telephone before a hearing officer.*

(1) Copy of Appeal.

*[(A)]* Upon the division's receipt of an appeal, the appeal shall be acknowledged and the *[appellant]* parties shall be provided

with a copy of the division's informational pamphlet concerning hearings and copies of the documents from the appeals file upon which the determination was based.

*[(B)]* The respondent, if any, shall be provided with a copy of the notice of appeal and the division's informational pamphlet concerning hearings.]

(2) *[An appeals tribunal]* A hearing officer upon *[its]* his/her own motion, or *[upon]* at the request of *[any interested]* a party, in *[its]* the hearing officer's discretion may direct the parties to appear at a specified time and place for a conference to consider—

(3) In any proceedings pending before *[an appeals tribunal,]* a hearing officer, claimants, *[or]* employing units, or their *[attorneys,]* representatives, shall, upon written request, *[in writing to the appeals tribunal, shall]* be supplied with information from *[the]* division's records to the extent division records are available to the hearing officer, as necessary for the proper preparation and presentation of any claim for unemployment benefits or appeal of employer liability.

*[(4)]* Unless an appeals tribunal determines otherwise, hearings to which a claimant is an interested party shall be held at or near the office of the division most conveniently located for the claimant. All other hearings, unless the appeals tribunal determines otherwise, shall be held at one (1) of the division's regularly established hearing locations.]

(4) Hearings may be conducted in-person, by telephone, or by a combination of telephone and in-person attendance referred to as a split hearing in this regulation.

(A) Hearings shall be conducted by telephone unless:

1. A party requests an in-person hearing; or

2. A hearing officer, on his/her own motion, schedules an in-person hearing.

(B) Any party shall have an absolute right to an in-person hearing.

1. A request for an in-person hearing shall be delivered to the hearing officer as soon as possible in the appeals process but, in any event, no later than two (2) days prior to the date of the hearing.

2. Requests may be made via fax, telephone, or delivered to the appeals section in written form.

3. Requests for in-person hearings made later than two (2) days prior to the date of the hearing shall be referred to the chief appeals referee or his/her designee(s) for disposition.

4. A request for an in-person hearing may only be withdrawn upon a showing of extreme circumstances precluding the requesting party's in-person attendance.

(C) The hearing officer may, on the hearing officer's own motion or the motion of a party, schedule a matter for an in-person hearing or adjourn any split or telephone hearing in progress for an in-person hearing, if, in the hearing officer's opinion, conducting any part of the hearing by telephone is unsatisfactory.

(D) A split hearing, with the parties present at different locations at the same time, may be scheduled only if an in-person or telephone hearing is not possible or the parties agree to or request a split hearing.

(5) Notices of Hearing.

(A) Notice of Hearing shall be mailed, by regular United States mail, to the *[last known]* address of record in the appeal file of each *[interested]* party, attorney who has entered an appearance, and others appearing in a representative capacity who have filed notice of intent to represent. *[or material witness]* Notices shall be mailed at least seven (7) days prior to the date of the hearing. *[Notices also shall be mailed to attorneys who have entered an appearance as set out in these rules.]*

These notices shall specify the date, time and place or method of *[the]* hearing and shall set forth the address of the office to which all requests or other correspondence concerning the hearing should be directed.

(B) The *[appeals tribunal]* hearing officer or *[its]* the designated appeals' clerk shall complete a certification that the Notice of Hearing was mailed to each of the parties and *[attorneys]* representatives of record at the addresses listed in the official file.

(6) Postponements.

(A) The *[appeals tribunal]* hearing officer, upon request of a party or upon *[its]* his/her own motion, may postpone a hearing. Postponements may be granted if—

1. The request is promptly made after the party receives the Notice of Hearing or after the circumstance requiring postponement arises; and

2. The party has good cause for not attending the hearing at the time and date set. Good cause exists when the circumstances causing the request are beyond the reasonable control of the requesting party and failure to grant the postponement would result in undue hardship for the requesting party.

(B) A postponement shall not be granted *[an attorney if the attorney accepts a case which]* to a representative who agrees to represent when the appeal has already been set for hearing knowing that the setting conflicts with a prior obligation of that *[attorney]* representative. Representatives shall include attorneys, agents, or employer representatives.

(7) Continuances and Additional Evidence.

(A) Any hearing may be continued from time-to-time or place-to-place at the discretion of the *[appeals tribunal]* hearing officer.

(B) All parties shall be prepared to introduce all of their evidence when the case is set for hearing as continuances for additional evidence will be granted only when the *[appeals tribunal before whom the case is set]* hearing officer is satisfied that the additional evidence is necessary to a full and complete hearing and was unavailable at the original setting because of surprise or because the party was unable to obtain the evidence after diligent and good faith efforts to obtain such evidence. *[If subsequent to hearing, but prior to mailing of the decision, the appeals tribunal decides that an additional hearing is necessary, the parties shall be advised in writing.]*

(C) Hearings rescheduled as a result of insufficient time to complete the hearing at the first setting will not include, at the second or subsequent setting, any witnesses or evidence not available at the original setting subject to subsection (B) of this section.

(D) If subsequent to hearing, but prior to mailing of the decision, the hearing officer decides that an additional hearing is necessary, the parties shall be advised in writing.

(8) Subpoenas.

(A) Subpoenas to compel the attendance of witnesses or the production of books, papers, correspondence, memoranda and other records or items either in-person or by telephone may be issued by *[an appeals tribunal]* a hearing officer—

*[(A)]* 1. Upon *[its]* his/her own motion; or

*[(B)]* 2. At *[its]* his/her discretion, upon the request of *[an interested]* a party who has—

*[1.]* A. Demonstrated that the evidence sought to be produced is relevant and necessary; and

*[2.]* B. Made a good faith effort to obtain the attendance of the witness or the production of the documents but has been unable to do so.

(B) The subpoena request shall be submitted to the hearing officer in sufficient time before the hearing to permit preparation and service of the subpoena before the hearing.

(C) Service of a subpoena may be by certified mail or personal service. If service is to be by certified mail, the request shall include a current address of the person to be served and specify that service is being requested to be by certified mail.

(D) A subpoena shall be served by delivering a copy of the subpoena to the person named therein no later than forty-eight (48) hours before the time for the appearance set forth in said subpoena.

*[(9)]* (E) Witnesses subpoenaed for any hearing before *[an appeals tribunal]* a hearing officer shall be paid witness and mileage fees in the same amounts as paid in civil actions before the circuit courts of this state, provided the witness and mileage fees are claimed *[at the time]* within five (5) days of the date of the hearing and certified to by the witness and approved by *[an appeals tribunal]* the hearing officer. Approved payment shall be made out of the Unemployment Compensation Administration Fund. Under no circumstances shall parties to the case be granted witness or mileage fees.

(F) A person served with a subpoena or a subpoena *duces tecum* may object to its terms by making a motion to quash as soon as possible after service. The hearing officer shall resolve the objection and may make an order appropriate to protect the parties or the witnesses from unreasonable or oppressive demands. If a party, or any person or organization within the control of a party, fails to obey a subpoena of a hearing officer, the hearing officer shall treat the evidence requested but not produced as establishing an inference favorable to the position of the party who subpoenaed the item subject to the opposing party's right to seek an order quashing or limiting the scope of the subpoena.

*[(10)]* (9) Participation and Representation at Hearings.

(A) A claimant may represent him/herself or be represented by a duly authorized agent, who may not charge a fee for *[his/her]* the representation.

(B) *[Any interested]* A party, which is a corporation, partnership or other business entity authorized by law, may be represented by an officer or a person employed full-time in a managerial capacity. For purposes of this *[rule]* regulation, managerial capacity includes any person who has managerial or supervisory duties as defined by the party.

(C) An employee of a corporation, partnership, or other business entity authorized by law, who is not an officer or full-time managerial employee may *[attend a]* appear, testify and offer exhibits in hearings *[to]* in which the business entity is *[an interested]* a party. The employee's participation at the hearing is limited to testifying and offering exhibits.

(D) Any *[interested]* party may be represented by a licensed Missouri attorney, a nonresident attorney appearing *[in personam and complying]* in compliance with Supreme Court Rule 9, or an eligible law student complying with Supreme Court Rule 13. *[A licensed attorney may charge a fee for representation.]*

(E) *[Any attorney retained to represent an interested]* All persons who will be acting in a representative capacity on behalf of a party before the *[appeals tribunal]* hearing officer shall file *[an entry of appearance]* notice of their intent to represent the party as soon as *[practicable]* possible after being retained or chosen. Attorneys shall file an entry of appearance, agents shall file an authorization signed by the claimant, and representatives shall file a statement of intent to act on behalf of the entity.

(F) No subsequent entry of appearance or notice of intent to represent shall be honored absent written withdrawal by the previous representative.

*[(F)]* (G) In order to protect the integrity and fairness of the appeals process, the *[appeals tribunal]* hearing officer requires *[agents]* all parties and persons acting in a representational capacity to comply with the following rules of conduct:

1. *[An agent]* All participants shall appear *[at]* for the hearing *[location]* and be ready to proceed no later than the starting time listed on the notice of hearing;

2. *[An agent]* All participants shall comply with all directions given by *[an appeals tribunal]* a hearing officer during a hearing;

3. *[An agent]* Participants may not use dilatory tactics prior to or during a hearing;

4. *[An agent]* Participants may not engage in abusive conduct, harass, intimidate, threaten, or cause physical harm to any *[referee]* hearing officer, *[other employee of the division, or any other]* party, witness, or member of the public in attendance;

5. *[An agent]* Participants may not act in a manner disruptive or disrespectful to the operations of the appeals' *[tribunal]* process;

6. *[An agent]* All participants shall act in good faith and with integrity during the representation of a party and shall adhere to reasonable standards of orderly and ethical conduct;

7. *[An agent]* The representative shall, to the extent reasonably possible, restrain the party represented by that *[agent]* individual from improprieties in connection with the hearing; and

8. *[An agent]* Any individual who fails to follow these rules will be excluded from the hearing *[room]*.

*[[11]]* (10) Conduct of Hearings.

(A) All hearings shall be open public hearings and shall be conducted in an orderly manner. The *[appeals tribunal]* hearing officer shall review the issues presented and set forth the procedures to be followed during the hearing. Persons whose presence would be detrimental to the proper conduct of the hearing may be excluded from the hearing *[room]* by *[an appeals tribunal]* Unless an appeals tribunal determines otherwise, the appellant shall first present evidence to show that the determination appealed from is in error. An appeals tribunal the hearing officer. The hearing officer may examine all parties and witnesses and shall determine the order of testimony and procedure for each hearing. Upon the motion of any party or *[an appeals tribunal]* the hearing officer, witnesses may be sequestered.

(B) In any hearing before *[an appeals tribunal]* a hearing officer, the following shall be the applicable rules of evidence and procedure:

1. Oral evidence shall only be taken by oath or affirmation;

2. Subject to this chapter's restrictions regarding representation, each party has the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not a subject of the direct examination, to impeach any witness, regardless of which party first called the witness to testify, and to rebut the evidence against him/her;

3. A party who does not testify in his/her own behalf may be called and examined as if under cross-examination;

4. The hearing need not be conducted according to the common law or statutory rules of evidence or the technical rules of procedure. Hearsay evidence is generally admissible. Evidence is admissible if it is not *[[irrelevant, immaterial, privileged or unduly repetitious [evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonable persons in the conduct of their affairs shall be admissible, whether or not that evidence would be admissible in a trial in the courts of Missouri]. Hearsay which is timely objected to shall not constitute competent evidence which, by itself, will support a finding of fact.* A party or his/her attorney may advise the *[appeals tribunal]* hearing officer of a defect in the character of any evidence introduced by voicing an objection. The *[appeals tribunal]* hearing officer shall rule on the admissibility of all evidence *[to which an objection is made]*. Any evidence received without objection which has probative value shall be con-

sidered by the *[appeals tribunal]* hearing officer along with other evidence in the case;

5. Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of an act, transaction, occurrence or event, shall be admissible as evidence of the act, transaction, occurrence or event, if it *[shall appear that it]* was made in the regular course of any business and that it was the regular course of the business to make the memorandum or record at the time of the act, transaction, occurrence, or event or within a reasonable time *[after that]* thereafter. All other circumstances of the making of the writing or record, *[including lack of personal knowledge by the entrant or maker,]* may be shown to affect the weight of the evidence, but the showing shall not affect its admissibility. The term business shall include business, profession, occupation and calling of every kind; and

6. All documents introduced as evidence shall be marked as exhibits. A photocopy may be substituted for an original document. Whenever practicable, demonstrative and physical evidence also shall be marked and placed in the record; otherwise, it shall be described in detail on the record.

(C) If the *[appeals tribunal]* hearing officer believes that the deputy's determination did not apply the correct provision(s) of law to the factual situation presented, the *[appeals tribunal]* hearing officer, after informing the parties, may expand or otherwise alter the hearing to include the correct issues involved. If one (1) or more parties object to the change in the hearing, the *[appeals tribunal]* hearing officer shall continue the hearing to allow the parties time to prepare for the proper issues.

*[[12]]* (11) Reassignment of *[Referee]* Hearing Officer. A *[referee]* hearing officer may be reassigned under the following conditions:

(A) If for any reason, a *[referee]* hearing officer cannot complete disposition of an appeal, the case shall be assigned to another *[referee]* hearing officer;

(B) A *[referee]* hearing officer shall not conduct a hearing in which *[s/he]* he/she may have a personal interest or conflict of interest or in which *[s/he]* he/she would have a personal bias towards or against any of the parties;

(C) Any party to a proceeding before *[the appeals tribunal]* a hearing officer may request the disqualification of the *[referee]* hearing officer assigned to the proceeding by filing with the chief referee a signed, written statement detailing the reasons why the disqualification is necessary. This request must be filed no later than five (5) days prior to the scheduled hearing date. The chief referee, or designee, shall issue a written ruling on the request. The written ruling shall be interlocutory but may be specified as a grounds for appeal following the issuance of the decision of the *[appeals tribunal]* hearing officer; and

(D) If the chief referee, or designee, rules that a *[referee]* hearing officer shall not conduct a scheduled hearing, another *[referee]* hearing officer shall be assigned to hear the case.

*AUTHORITY: sections 288.190 and 288.220.5, RSMo [Supp. 1997] 2000. Original rule filed Dec. 14, 1982, effective March 13, 1983. For intervening history, please consult the Code of State Regulations. Amended: Filed April 5, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Employment Security, Attn: Bonnie Keaton, PO*

Box 59, Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
**Division 10—Division of Employment Security**  
**Chapter 5—Appeals**

**PROPOSED RESCISSION**

**8 CSR 10-5.030 Telephone Hearings Before an Appeals Tribunal.** This rule established procedures for conducting hearings by telephone conference under section 288.190, RSMo.

*PURPOSE:* This rule is being rescinded due to the fact that a new rule governing telephone hearings is proposed to establish procedures for conducting due process hearings by telephone conference.

*AUTHORITY:* sections 288.190 and 288.220.5, RSMo 1986. Original rule filed Dec. 14, 1982, effective March 13, 1983. Emergency amendment filed July 12, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed July 12, 1984, effective Oct. 11, 1984. Amended: Filed Oct. 17, 1988, effective March 26, 1989. Emergency amendment filed Dec. 11, 1996, effective Jan. 2, 1997, terminated March 31, 1997. Rescinded: Filed April 30, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Employment Security, Attn: Bonnie Keaton, PO Box 59, Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
**Division 10—Division of Employment Security**  
**Chapter 5—Appeals**

**PROPOSED RULE**

**8 CSR 10-5.030 Telephone Hearings Before a Hearing Officer**

*PURPOSE:* This rule establishes procedures for conducting due process hearings by telephone conference under section 288.190, RSMo.

(1) Exhibits.

(A) Copies of the contents of the appeal file upon which the determination is based which may be used as exhibits shall be mailed to the parties to telephone hearings and split hearings prior to the hearing date.

(B) Parties to split or telephone hearings shall mail copies of potential exhibits to the hearing officer and any other named party in sufficient time for the exhibit to reach those locations prior to the hearing.

(C) Mailing of exhibits shall be to the address of the party shown on the Notice of Hearing. The item(s) shall be designated as a potential exhibit and paginated.

(2) Participation.

(A) Election of an in-person hearing by a party must be conveyed to the hearing officer at least two (2) days prior to the hearing and acknowledged by the hearing officer. Absent acknowledgement, a party may not assume that its appearance is scheduled in-person.

(B) Election by a party not to participate by telephone shall not be binding on other parties to the proceeding who may, at the discretion of the hearing officer, present evidence by telephone.

(C) If a hearing officer is unable to contact a party who has provided a number to participate as scheduled by telephone due to land based telephone technical difficulties, the hearing shall not be dismissed but must be re-scheduled. For purposes of this regulation, technical difficulties shall not include use of the telephone by the party for other calls, failure of battery powered, digital, or cellular phones due to location or failure of power, or failure to provide access or security codes.

(D) Whenever a party does not have access to a telephone the party may appear by telephone from any Workforce Development office. In that event, the telephone number at that location shall be provided by the participant in accordance with instructions included on the Notice of Hearing.

(3) Testimony.

(A) Witnesses must testify from their own recollection.

(B) A witness may use notes or records to refresh his/her memory so long as copies of the records or items used for that purpose have been mailed, faxed, or otherwise delivered to the other participants by the time of the hearing in order to allow cross-examination of the witness on that basis.

(C) The hearing officer may make such inquiry on the record as she/he deems appropriate to ascertain the identity of the individuals participating by telephone.

(D) Telephone hearings are judicial evidentiary proceedings and shall not be subject to interruptions. If a party leaves the phone for any reason, such action shall be considered voluntary and the hearing shall proceed without such party.

*AUTHORITY:* sections 288.220, RSMo 2000. Original rule filed Dec. 14, 1982, effective March 13, 1983. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed April 30, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Employment Security, Attn: Bonnie Keaton, PO Box 59, Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
**Division 10—Division of Employment Security**  
**Chapter 5—Appeals**

**PROPOSED RESCISSION**

**8 CSR 10-5.040 Orders of an Appeals Tribunal.** This rule established procedures for dismissal of certain appeals.

*PURPOSE:* This rule is being rescinded due to the fact that a new rule governing procedures for dismissal of certain appeals is

*proposed which includes appeals by a party failing to participate in a telephone hearing.*

*AUTHORITY: sections 288.190, RSMo 1994 and 288.220.5, RSMo Supp. 1995. Original rule filed Dec. 14, 1982, effective March 13, 1983. Emergency amendment filed July 12, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed July 12, 1984, effective Oct. 11, 1984. Amended: Filed Oct. 17, 1988, effective March 26, 1989. Emergency amendment filed July 25, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Amended: Filed July 25, 1996, effective Jan. 30, 1997. Rescinded: Filed April 30, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Employment Security, Attn: Bonnie Keaton, PO Box 59, Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 8—DEPARTMENT OF LABOR AND  
INDUSTRIAL RELATIONS  
Division 10—Division of Employment Security  
Chapter 5—Appeals**

**PROPOSED RULE**

**8 CSR 10-5.040 Orders of a Hearing Officer**

*PURPOSE: This rule establishes procedures for dismissal of certain appeals.*

(1) Timeliness of Appeals. If it appears to the hearing officer, upon examination of the file, that an appeal was not filed within the time allowed by statute, the hearing officer may:

(A) Dismiss the appeal; or

(B) Set the matter for hearing to include consideration of the merits of the appeal in addition to the timeliness of the appeal. If it is found that no timely appeal was filed, the hearing officer shall dismiss the appeal without ruling on the merits.

(2) Failure to Appear for Hearings.

(A) If the appellant fails to appear at a hearing at the scheduled time or location, the appeal shall be dismissed.

(B) If such dismissal is set aside, the matter shall be scheduled for hearing. The threshold issue shall be whether the appellant had good cause for failing to appear for the prior setting. The merits of the appeal may also be heard. If good cause is not found, the hearing officer shall reinstate the order of dismissal. If good cause is found, the hearing officer shall rule on the merits of the appeal.

(3) Dismissal of Appeals.

(A) An order of dismissal shall recite the essential facts, which establish the failure to file the appeal within the time allowed by statute or the failure of the appellant to appear at the scheduled time, and the order dismissing the appeal.

(B) Copies of the order of dismissal shall be mailed to all parties.

(C) Upon written request of the appellant, or upon its own motion, a hearing officer may set aside an order of dismissal and

have the appeal reset for hearing if the request and set aside occur within thirty (30) days of the dismissal.

(4) Withdrawal of Appeals. An appellant, subject to the approval of the hearing officer, may withdraw an appeal prior to the mailing of the decision. The withdrawal request must be in writing and signed by either the appellant or the appellant's representative, or entered orally on the record. If approved, the hearing officer shall issue a written order of withdrawal.

(5) Application for Review.

(A) When a written request to reconsider or set aside an order of dismissal is not granted, the request shall be considered an application for review to the Labor and Industrial Relations Commission.

(B) Any written request by the appellant to set aside an order of withdrawal shall be considered an application for review to the Labor and Industrial Relations Commission.

*AUTHORITY: sections 288.190, RSMo and 288.220.5, RSMo 2000. Original rule filed Dec. 14, 1982, effective March 13, 1983. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed April 30, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Employment Security, Attn: Bonnie Keaton, PO Box 59, Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 8—DEPARTMENT OF LABOR AND  
INDUSTRIAL RELATIONS  
Division 10—Division of Employment Security  
Chapter 5—Appeals**

**PROPOSED AMENDMENT**

**8 CSR 10-5.050 Decisions of an Appeals Tribunal.** The division proposes to amend all sections and deletes the form which follows the rule in the *Code of State Regulations*.

*PURPOSE: The purpose of this change is to delineate the decision and post-decision activities of the hearing officer and to effect consistency of terminology with this chapter.*

(1) Upon conclusion of the hearing, the *[appeals tribunal] hearing officer* shall prepare a written decision. The decision shall be based solely upon competent and substantial evidence contained in the official record.

(2) The decision may include, but shall not be limited to, the following:

(A) Findings of *[F]fact* necessary for resolution of the issues, findings based upon stipulation of the parties or matters officially noticed by the *[appeals tribunal] hearing officer* shall be so designated;

(B) Conclusions of *[L]law* accompanied by reference to the operative *[F]findings of [F]fact* and the specific provisions of the statutory law from which the conclusions were drawn; and

(3) Notification of the decision shall include the following procedure:

(A) A copy of the decision shall be mailed to the address of record of the *[interested]* parties and attorneys of record, if any, by regular United States mail. Information accompanying the decision shall advise the parties of their right to, and the means by which, an application for review of the decision may be filed with the Labor and Industrial Relations Commission; and

(B) The *[appeals tribunal]* hearing officer or *[its]* his/her designated clerk shall complete a certification that the decision was mailed to each of the *[interested]* parties and attorneys of record at the addresses listed in the official file.

(4) At any time up to thirty (30) days from the date of a decision and prior to an application for review, *[an appeals tribunal]* a hearing officer may issue a corrected decision to eliminate any errors *[contained in it]*. This section does not supersede the provisions of this chapter regarding orders of dismissal.

(5) If the *[appeals tribunal]* hearing officer receives a signed written communication from *[an interested]* a party which expresses disagreement with a decision or order, or which otherwise indicates a desire to file an application for review, the *[appeals tribunal]* hearing officer shall forward it to the Labor and Industrial Relations Commission. This section does not supersede the provisions of this chapter regarding orders of dismissal.

*AUTHORITY: sections 288.190, RSMo 1994 and 288.220.5, RSMo [Supp. 1995] 2000. Original rule filed Oct. 17, 1988, effective March 26, 1989. Emergency amendment filed July 25, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Amended: Filed July 25, 1996, effective Jan. 30, 1997. Amended: Filed April 5, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Employment Security, Attn: Bonnie Keaton, PO Box 59, Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 7—Core Rules for Psychiatric and Substance  
Abuse Programs**

**PROPOSED AMENDMENT**

**9 CSR 10-7.060 Behavior Management:** The department proposes to amend subsections (2)(A) and (2)(C), and add three new paragraphs and renumber the existing paragraphs accordingly.

*PURPOSE: This amendment updates and clarifies the use of restraint, seclusion and time out in Alcohol and Drug Abuse Treatment Programs, Comprehensive Substance Treatment and Rehabilitation Programs (CSTAR), Compulsive Gambling Treatment Programs, Substance Abuse Traffic Offender Programs (SATOP), Required Education Assessment and Community Treatment Programs (REACT), Community Psychiatric Rehabilitation Programs (CPRP), and Psychiatric Outpatient Programs.*

(2) Seclusion and Restraint.

(A) The organization shall assure that seclusion and restraint are only used when an individual's behavior presents an immediate risk of danger to themselves or others and no other safe or effective treatment intervention is possible. *[It]* They shall only be implemented when alternative, less restrictive interventions have failed or cannot be safely implemented. Seclusion and restraint *[is]* are never used as a treatment intervention. *[It is an]* They are emergency/security measures to maintain safety when all other less restrictive interventions are inadequate.

(C) The organization shall assure that seclusion *[and]* or restraint is used only when ordered by a *[licensed, independent practitioner]* licensed practitioner trained in the use of emergency safety interventions or a certified substance abuse counselor trained in the use of emergency safety interventions. Orders for seclusion *[and]* or restraint must define specific time limits. Seclusion and restraint shall be ended at the earliest possible time.

1. If seclusion or restraint is initiated prior to obtaining an order, staff must obtain an order immediately.

2. Within one (1) hour of the initiation of the seclusion or restraint a certified substance abuse counselor or licensed practitioner trained in the use of emergency safety interventions and assessment of the physical and psychological well being of residents, must conduct a face-to-face assessment of the physical and psychological well-being of the resident, including but not limited to:

A. The resident's physical and psychological status;

B. The resident's behavior;

C. The appropriateness of the intervention measures;

and

D. Any complications resulting from the intervention.

*[1.]* 3. Standing or *pro re nata* (PRN) orders for seclusion *[and]* or restraint are not allowed.

*[2.]* 4. An order cannot exceed four (4) hours for adults, two (2) hours for children and adolescents ages nine to seventeen (9-17), or one (1) hour for children under age nine (9). *[If nonindependent licensed]* When nonlicensed staff initiate/s] seclusion *[and]* or restraint, an order based on a face-to-face evaluation must be obtained from a *[licensed, independent practitioner]* licensed practitioner trained in the use of emergency safety interventions or a certified substance abuse counselor trained in the use of emergency safety interventions within one (1) hour.

*[3.]* 5. Individuals in restraint shall be monitored continuously. Monitoring may be face-to-face by assigned staff or by audiovisual equipment.

*[4.]* 6. Individuals in seclusion shall be visually monitored at least every fifteen (15) minutes.

*[5.]* 7. Individuals in seclusion *[and]* or restraint are offered regular food, fluid and an opportunity to meet their personal hygiene needs no less than every two (2) hours.

*[6.]* 8. The need for continuing seclusion *[and]* or restraint shall be evaluated by and, where necessary, *[must be further ordered by a licensed, independent practitioner]* re-ordered by a licensed practitioner trained in the use of emergency safety interventions or certified substance abuse counselor trained in the use of emergency safety interventions at least every four (4) hours for adults, two (2) hours for children and adolescents ages nine through seventeen (9-17), or one (1) hour for children under age nine (9). *[The evaluation shall be based on face-to-face observation and/or interview with the individual.]*

9. The evaluation for the first renewal following an order based on a face-to-face evaluation by a licensed practitioner trained in the use of emergency safety interventions or certified substance abuse counselor trained in the use of emergency safety interventions may be based on a telephone consultation between a licensed practitioner trained in the use of emergency safety interventions or a certified substance abuse counselor

trained in the use of emergency safety intervention and on-site staff who have done a face-to-face evaluation with the person in seclusion or restraint. The evaluation for every alternate renewal period shall be based on face-to-face observation and/or interview with the individual by the licensed practitioner or certified substance abuse counselor trained in the use of emergency safety interventions.

[7.] 10. The organization's clinical director or quality improvement coordinator shall review every episode of seclusion [and] or restraint within seventy-two (72) hours.

[8.] 11. Any incident of restraint or seclusion shall be promptly reported to the person's parent or legal guardian, when applicable.

*AUTHORITY: sections 630.050 and 630.055, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed April 15, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 7—Core Rules for Psychiatric and Substance  
Abuse Programs**

**PROPOSED AMENDMENT**

**9 CSR 10-7.070 Medications.** The department proposes to amend paragraph (4)(A)2. and add new paragraph (4)(A)3.

*PURPOSE: This amendment updates and clarifies training and procedures for the proper storage, use and administration of medications in Alcohol and Drug Abuse Treatment Programs, Comprehensive Substance Treatment and Rehabilitation Programs (CSTAR), Compulsive Gambling Treatment Programs, Substance Abuse Traffic Offender Programs (SATOP), Required Education Assessment and Community Treatment Programs (REACT), Community Psychiatric Rehabilitation Programs (CPRP), and Psychiatric Outpatient Programs.*

(4) Medication Administration and Related Requirements. The following requirements apply to programs that prescribe or administer medication and to those programs where individuals self-administer medication under staff observation.

(A) Staff Training and Competence. The organization shall ensure the training and competence of staff in the administration of medication and observation for adverse drug reactions and medication errors, consistent with each staff individual's job duties.

1. Staff whose duties include the administration of medication shall complete Level I medication aide training in accordance with [13 CSR 15-13.030] **19 CSR 30-84.030**. This requirement shall not apply to those staff who—

A. Have prior education and training which meets or exceeds the Level I medication aide training hours and skill objectives; or

B. Work in settings where clients self-administer their own medication under staff observation.

2. [In residential programs, s/Staff whose duties are limited to observing clients self-administer their own medication or to documenting that medication is taken as prescribed shall [consult] have available to them a physician, pharmacist, registered nurse or reference material [regarding the action and possible side effects or adverse reactions of each medication under their supervision. This consultation shall be documented] for consultation regarding medications and their actions, possible side effects, and potential adverse reactions.

3. Staff whose duties are limited to observing clients self-administer their own medication or to documenting that medication is taken as prescribed shall receive education on general actions, possible side effects, and potential adverse reactions to medications.

*AUTHORITY: sections 630.050 and 630.055, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed April 15, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 7—Core Rules for Psychiatric and Substance  
Abuse Programs**

**PROPOSED AMENDMENT**

**9 CSR 10-7.140 Definitions.** The department proposes to amend section (2).

*PURPOSE: This amendment adds a new subsection (2)(OO), and renumbers existing subsections accordingly.*

(2) Unless the context clearly indicates otherwise, the following terms shall mean:

(OO) Primary diagnosis, a diagnosis of a mental illness, disability, or substance abuse disorder that is not due to a co-existing illness. A person with a primary diagnosis would still meet full criteria for that diagnosis in the absence of any co-existing disorder. A person may have several primary diagnoses, and a primary diagnosis is not necessarily the diagnosis causing the most severe impairment.

[(OO)] (PP) Program, an array of services designed to achieve specific goals for an identified target population in accordance with designated procedures and practices;

[(PP)] (QQ) Qualified mental health professional—any of the following:

1. A physician licensed under Missouri law to practice medicine or osteopathy and with training in mental health services or one (1) year of experience, under supervision, in treating problems related to mental illness or specialized training;



2. A psychiatrist, a physician licensed under Missouri law who has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program identified as equivalent by the department;

3. A psychologist licensed under Missouri law to practice psychology with specialized training in mental health services;

4. A professional counselor licensed under Missouri law to practice counseling and with specialized training in mental health services;

5. A clinical social worker licensed under Missouri law with a master's degree in social work from an accredited program and with specialized training in mental health services;

6. A psychiatric nurse, a registered professional nurse licensed under Chapter 335, RSMo with at least two (2) years of experience in a psychiatric setting or a master's degree in psychiatric nursing;

7. An individual possessing a master's or doctorate degree in counseling and guidance, rehabilitation counseling and guidance, rehabilitation counseling, vocational counseling, psychology, pastoral counseling or family therapy or related field who has successfully completed a practicum or has one (1) year of experience under the supervision of a mental health professional;

8. An occupational therapist certified by the American Occupational Therapy Certification Board, registered in Missouri, has a bachelor's degree and has completed a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting, or has a master's degree and has completed either a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting;

9. An advanced practice nurse—as set forth in section 335.011, RSMo, a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the Board of Nursing; and

10. A psychiatric pharmacist as defined in 9 CSR 30-4.030;

**[[QQ]] (RR)** Qualified substance abuse professional, a person who demonstrates substantial knowledge and skill regarding substance abuse by being either—

1. A counselor, psychologist, social worker or physician licensed in Missouri who has at least one (1) year of full-time experience in the treatment or rehabilitation of substance abuse;

2. A graduate of an accredited college or university with a master's degree in social work, counseling, psychology, psychiatric nursing or closely related field who has at least two (2) years of full-time experience in the treatment or rehabilitation of substance abuse;

3. A graduate of an accredited college or university with a bachelor's degree in social work, counseling, psychology or closely related field who has at least three (3) years of full-time experience in the treatment or rehabilitation of substance abuse; or

4. An alcohol, drug or substance abuse counselor certified by the Missouri Substance Abuse Counselors Certification Board, Inc.;

**[[RR]] (SS)** Quality improvement, an approach to the continuous study and improvement of the service delivery process and outcomes in order to effectively meet the needs of persons served;

**[[SS]] (TT)** Recovery, continuing steps toward a positive state of health that includes stabilized symptoms of mental illness, substance abuse or both, meaningful and productive relationships and roles within the community, and a sense of personal well-being, independence, choice and responsibility to the fullest extent possible;

**[[TT]] (UU)** Rehabilitation, a process of restoring a person's ability to attain or maintain normal or optimum health or constructive activity by providing services and supports;

**[[UU]] (VV)** Relapse, recurrence of substance abuse in an individual who has previously achieved and maintained abstinence for a significant period of time beyond detoxification;

**[[VV]] (WW)** Relapse prevention, assisting individuals to identify and anticipate high risk situations for substance use, develop action steps to avoid or manage high risk situations, and maintain recovery;

**[[WW]] (XX)** Research, in accordance with 9 CSR 60-1.010 this term is defined as experimentation or intervention with or on individuals, including behavioral or psychological research, biomedical research, and pharmacological research. Excluded are those instances where the manipulation or application is intended solely and explicitly for individual treatment of a condition, falls within the prerogative of accepted practice and is subject to appropriate quality assurance review. Also excluded are activities limited to program evaluation conducted by staff members as a regular part of their jobs, the collection or analysis of management information system data, archival research or the use of departmental statistics;

**[[XX]] (YY)** Residential, service delivery by an organization that includes overnight sleeping accommodations as a component of providing twenty-four (24) hour per day supervision and structure;

**[[YY]] (ZZ)** Restraint, restricting an individual's ability to move by physical, chemical or mechanical methods in order to maintain safety when all other less restrictive interventions are inadequate;

**[[ZZ]] (AAA)** Restraint (chemical), medication not prescribed to treat an individual's medical condition and administered with the primary intent of restraining an individual who presents a likelihood of physical injury to self or others;

**[[AAA]] (BBB)** Restraint (mechanical), the use of any mechanical device that restricts the movement of an individual's limbs or body and that cannot be easily removed by the person being restrained;

**[[BBB]] (CCC)** Restraint (physical), physically holding an individual and restricting freedom of movement to restrain temporarily for a period longer than ten (10) minutes an individual who presents a likelihood of physical injury to self or others;

**[[CCC]] (DDD)** Screening, the process in which a trained staff member gathers and evaluates relevant information through an initial telephone or face-to-face interview with a person seeking services in order to determine that services offered by the program are appropriate for the person;

**[[DDD]] (EEE)** Seclusion, placing an individual alone in a separate room with either a locked door or other method that prevents the individual from leaving the room;

**[[EEE]] (FFF)** Sentinel event, a serious event that triggers further investigation each time it occurs. It is typically an undesirable and rare event;

**[[FFF]] (GGG)** Service, the provision of prevention, care, treatment, or rehabilitation to persons affected by mental illness or substance abuse;

**[[GGG]] (HHH)** Sexual abuse, in accordance with 9 CSR 10-5.200;

**[[HHH]] (III)** Staff member/personnel, an employee of a certified organization or a person providing services on a contractual basis on behalf of the organization;

**[[III]] (JJJ)** Substance, alcohol or other drugs, or both;

**[[JJJ]] (KKK)** Substance abuse, unless the context clearly indicates otherwise, a broad term referring to alcohol or other drug abuse or dependency in accordance with criteria established in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American Psychiatric Association;

**[[KKK]] (LLL)** Supports, array of activities, resources, relationships and services designed to assist an individual's integration into the community, participation in treatment, improved functioning, or recovery;



*[(LLL)] (MMM)* Treatment, application of planned procedures intended to accomplish a change in the cognitive or emotional conditions or the behavior of a person served consistent with generally recognized principles or practices in the mental health field;

*[(MMM)] (NNN)* Treatment plan, a document which sets forth individualized care, treatment and rehabilitation goals and the specific methods to achieve these goals for persons affected by mental illness or substance abuse, and which details the individual's treatment program as required by law, rules and funding sources;

*[(NNN)] (OOO)* Treatment principle, basic precept or approach to promote the effectiveness of care, treatment and rehabilitation services and the dignity and involvement of persons served; and

*[(OOO)] (PPP)* Verbal abuse, in accordance with 9 CSR 10-5.200.

(3) Singular terms include the plural and vice versa, unless the context clearly indicates otherwise.

*AUTHORITY: sections 630.050 and 630.055, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed April 15, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

### **Title 9—DEPARTMENT OF MENTAL HEALTH Division 30—Certification Standards Chapter 3—Alcohol and Drug Abuse Programs**

#### **PROPOSED AMENDMENT**

**9 CSR 30-3.120 Detoxification.** The department proposes to amend subsection (6)(D) and add a new section (8).

*PURPOSE: Subsection (6)(D) changes "counselor" to "professional" in order to be consistent with current definitions. A new section (8) is being added to clarify program requirements concerning the handling of applications for civil detention of intoxicated persons.*

(6) Continuing Treatment. Detoxification services shall actively encourage each person to address substance abuse issues and to make arrangements for continuing treatment. There shall be documentation of services delivered and arrangements for continuing treatment. A comprehensive assessment and master treatment plan are not required during detoxification.

(D) A qualified substance abuse [counselor] professional shall be available and involved in providing individual and group sessions and making arrangements for continuing treatment.

**(8) The program handles applications for civil detention of intoxicated persons in accordance with sections 631.115, 631.120 and 631.125, RSMo 2000 unless a waiver is granted in writing by the department.**

*AUTHORITY: sections 630.050, 630.655 and 631.010, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed Oct. 15, 2001, effective April 30, 2002. Amended: Filed April 15, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

### **Title 9—DEPARTMENT OF MENTAL HEALTH Division 30—Certification Standards Chapter 3—Alcohol and Drug Abuse Programs**

#### **PROPOSED AMENDMENT**

**9 CSR 30-3.140 Residential Treatment.** The department proposes to add a new section (6).

*PURPOSE: This amendment clarifies program requirements concerning applications for continued civil detention.*

**(6) The program handles applications for continued civil detention in accordance with sections 631.140, 631.145 and 631.150, RSMo 2000.**

*AUTHORITY: sections 630.050, 630.655 and 631.010, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed Oct. 15, 2001, effective April 30, 2002. Amended: Filed April 15, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

### **Title 9—DEPARTMENT OF MENTAL HEALTH Division 30—Certification Standards Chapter 3—Alcohol and Drug Abuse Programs**

#### **PROPOSED AMENDMENT**

**9 CSR 30-3.192 Specialized Program for Adolescents.** The department proposes to amend subsection (8)(B).

*PURPOSE:* This amendment limits the requirement for a history and physical examination to adolescents receiving residential support.

(8) Safety and Health. The program shall maintain a safe, healthy environment which is responsive to the physical and medical needs of adolescents.

(B) For adolescents receiving residential support, /T/the program must provide or arrange for a history and physical examination performed by a physician licensed in Missouri or a nurse practitioner licensed and authorized to title and practice as an advanced practice nurse pursuant to 335.016, RSMo and who is engaged in a written collaborative practice arrangement as defined by law. Registered nurses may still conduct initial health screenings upon admission to a residential support setting, but this screening does not satisfy the requirement for a history and physical examination as defined above.

*AUTHORITY:* sections 630.050, 630.655 and 631.010, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed April 15, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 10—Air Conservation Commission**  
**Chapter 5—Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan Area**

**PROPOSED RESCISSION**

**10 CSR 10-5.443 Control of Gasoline Reid Vapor Pressure.** This rule limited the volatility of motor vehicle gasoline in the St. Louis ozone nonattainment area. If the commission adopts this rule action, it will not be submitted to the U.S. Environmental Protection Agency for removal from the Missouri State Implementation Plan because the rule was never officially approved as part of the State Implementation Plan.

*PURPOSE:* This rule is proposed for rescission because federal Reformulated Gasoline (RFG) has been required at retail stations in the St. Louis ozone nonattainment area since June 1, 1999. This rule explicitly states federal RFG fully satisfies the requirements of section (3), which includes general provisions and compliance dates. The rescission of this rule would ensure the regulated community does not need to comply with other rule requirements such as the record keeping requirements of section (6). The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the Reformulated Gasoline (RFG) portion of the St. Louis 15% Rate of Progress (ROP) plan, the final rule requiring RFG requirements in 40 CFR 80.70(n), and the federal RFG requirements in 40 CFR Part 80 Subpart D. This evi-

dence encompasses the federal requirement to use federal RFG in the St. Louis ozone nonattainment area. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

*AUTHORITY:* section 643.050, RSMo 1994. Original rule filed Dec. 13, 1993, effective July 30, 1994. Amended: Filed Oct. 7, 1994, effective May 28, 1995. Rescinded: Filed April 2, 2002.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* A public hearing on this proposed rescission will begin at 9:00 a.m., July 25, 2002. The public hearing will be held at the Drury Inn & Suites, Ballroom, 11980 Olive Street, Creve Coeur, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., August 1, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 2—Income Tax**

**PROPOSED RESCISSION**

**12 CSR 10-2.005 Questions and Answers.** Income Tax Release 73.11 was rewritten and renumbered in order to comply with the uniform procedures adopted by the secretary of state under section 536.023, RSMo. No changes in the substantive effect of the release have been made. This rule represented the response of the Department of Revenue to questions involving the Missouri income tax treatment of Missouri resident individual cash basis taxpayers for calendar year 1973 and following years.

*PURPOSE:* This rule is being rescinded because it is no longer applicable.

*AUTHORITY:* section 143.961, RSMo 1986. This rule was previously filed as Income Tax Release 73-11, Jan. 29, 1974, effective Feb. 8, 1974. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments

must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RESCISSION**

**12 CSR 10-2.040 Transitional Adjustments in Accounting Methods.** This rule served as a guideline in the determination of any adjustments that are required for Missouri income tax purposes resulting from a change in the taxpayer's accounting method for the first taxable period to which sections 143.011–143.996, RSMo apply which was necessary to prevent duplication or omission of income or deduction items.

*PURPOSE:* This rule is being rescinded because it is no longer applicable.

*AUTHORITY:* section 143.301, RSMo 1986. Regulation 1.301 was originally filed April 3, 1974, effective April 13, 1974. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RESCISSION**

**12 CSR 10-2.065 Failure to Pay Estimated Tax.** This rule set forth guidelines in the determination of whether an individual, corporate or other taxpayer is subject to an additional tax for failure to pay estimated tax.

*PURPOSE:* This rule is being rescinded because it was intended as an interpretive guideline in the application of section 143.761, RSMo and was applicable only with respect to taxable years beginning after December 31, 1972 and ending before January 1, 1984. 12 CSR 10-2.067 is applicable with respect to taxable years ending January 1, 1984 and following.

*AUTHORITY:* section 143.961, RSMo 1986. Regulation 1.761 was originally filed Dec. 22, 1975, effective Jan. 2, 1976. Amended: Filed Nov. 5, 1982, effective Feb. 11, 1983. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RESCISSION**

**12 CSR 10-2.145 Regulation for Computation of Interest on Investment Tax Credit Carryback.** This rule established the date from which interest shall be imposed on deficiencies arising from investment credit carryback.

*PURPOSE:* This rule is being rescinded because it is no longer applicable.

*AUTHORITY:* sections 143.601, 143.711 and 143.731, RSMo 1994. Original rule filed Oct. 1, 1985, effective Dec. 26, 1985. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RESCISSION**

**12 CSR 10-2.175 Agricultural Unemployed Person.** This rule established the requirements and procedures for claiming the tax credit on the agricultural unemployed person provided in sections 135.275–135.287, RSMo.

*PURPOSE:* This rule is being rescinded because the credit has expired.

*AUTHORITY:* section 135.285, RSMo 1994. Emergency rule filed Nov. 18, 1986, effective Nov. 28, 1986, expired March 28, 1997. Original rule filed Nov. 18, 1986, effective March 12, 1987. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the

Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.240 Meal Tickets.** This rule interpreted the sales tax law as it applied to the sale of meal tickets and interpreted and applied section 144.010, RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. S.T. regulation 020-16 was last filed as rule no. 11 Jan. 22, 1973, effective Feb. 1, 1973. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.245 Exempt Federal, State Agency or Missouri Political Subdivision—General Requirements.** This rule set forth general requirements which applied to a federal, state agency or Missouri political subdivision claiming exempt status and interpreted and applied section 144.030, RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. Original rule filed Oct. 15, 1984, effective Feb. 11, 1985. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments

must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.247 Information Required to be Filed by a Federal, State Agency or Missouri Political Subdivision Claiming Exemption.** This rule set forth the requirements which must be met by a federal, state agency or Missouri political subdivision making application for exemption and interpreted sections 144.030 and 144.080, RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. Original rule filed Oct. 15, 1984, effective Feb. 11, 1985. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.250 Sales to Missouri.** This rule interpreted the sales tax law as it applied to sales to Missouri and interpreted and applied sections 144.010 and 144.020, RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. This rule was previously filed as rule no. 1 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 030-2 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments

must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.254 Sales to Missouri Political Subdivisions.** This rule interpreted the sales tax law as it applied to Missouri political subdivisions and interpreted and applied sections 144.010 and 144.020, RSMo; Mo. Const. Art. III, subsection 39(10) and Art. X, subsection 15.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. This rule was previously filed as rule no. 3 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 030-3 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.256 Sales Other Than Missouri or its Political Subdivisions.** This rule interpreted the sales tax law as it applied to sales made to governments other than Missouri or its political subdivisions and interpreted and applied sections 144.010 and 144.030, RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. S.T. regulation 030-4 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO

Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.258 Petty Cash Funds.** This rule interpreted the sales tax law as it applied to sales paid for out of petty cash funds and interpreted and applied sections 144.010 and 144.080, RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. S.T. regulation 030-5 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.292 Ingredients or Component Parts.** This rule defined ingredients or component parts for purposes of the sales tax law and interpreted and applied section 144.030.2(2) and (5), RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. This rule was previously filed as rule no. 77 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 030-23 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments

must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.294 Component Parts.** This rule interpreted the sales tax law as it applied to component parts and interpreted and applied section 144.030.2(4) and (5), RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. This rule was previously filed as rule no. 77 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 030-24 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.300 Common Carriers.** This rule interpreted the sales tax law, section 144.030.2(3), RSMo, as it applied to common carriers.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. S.T. regulation 030-27 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Dec. 10, 1986, effective April 11, 1987. Rescinded: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 24—Drivers License Bureau Rules**

**PROPOSED AMENDMENT**

**12 CSR 10-24.190 Drivers License Retesting Requirements After a License, School Bus Permit or Temporary Instruction Permit Expires.** The director proposes to amend section (1).

*PURPOSE:* This amendment clarifies that a valid Missouri driver license, school bus permit, or temporary instruction permit can be renewed up to six (6) months (one hundred eighty-four (184) days) prior to the date of expiration.

(1) Every holder of a valid driver[s] license, school bus permit, or temporary instruction permit shall renew that license or permit on or before the date of expiration. **This license or permit can be renewed up to six (6) months (one hundred eighty-four (184) days) prior to the date of expiration.**

*AUTHORITY:* section 302.173, RSMo Supp. 2001. Original rule filed Oct. 30, 1989, effective Feb. 25, 1990. Amended: Filed July 15, 1991, effective Oct. 31, 1991. Amended: Filed Nov. 21, 1991, effective April 9, 1992. Amended: Filed June 29, 2000, effective Dec. 30, 2000. Amended: Filed Sept. 27, 2001, effective March 30, 2002. Emergency amendment filed April 4, 2002, effective April 14, 2002, expires Oct. 10, 2002. Amended: Filed April 4, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 24—Drivers License Bureau Rules**

**PROPOSED AMENDMENT**

**12 CSR 10-24.326 Third Party Tester and Examiner Sanction and Hearing Guidelines.** The director proposes to delete section (11) and update the charts to reflect this change.

*PURPOSE:* This amendment removes the provision from the pending rule which imposes sanctions on commercial truck driver training centers and commercial truck driver trainers employed by such centers that administer third party commercial driver license examinations to drivers trained by such centers and trainers.

[(11) Any Missouri public school district and their pupil transportation contractor or Missouri state operated training center is exempt from the requirement and sanctions in the third party tester/examiner requirements stating the third party tester may not both train and test.]

**MISSOURI DEPARTMENT OF REVENUE THIRD PARTY TESTING PROGRAM  
SANCTIONS**

**EXAMINER**

**VIOLATIONS      FIRST OFFENSE      SECOND OFFENSE      THIRD OFFENSE      FOURTH OFFENSE**

<b>VIOLATIONS</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>	<b>FOURTH OFFENSE</b>
<b>EXAMINER RECORDKEEPING AND BUSINESS PRACTICES</b>				
Examiner conducts test while non-certified, suspended or decertified.	Decertification			
Examiner conducts tests without DOR approval or conducts tests for more than one tester.	Decertification			
Examiner does not adhere to fee schedule.	Warning letter	30-day suspension.	60-day suspension.	Decertification
Examiner fails to maintain or complete records as required.	Warning letter	30-day suspension.	60-day suspension.	Decertification
Examiner fails to respond to DOR/MSHP request for information or fails to comply with DOR/MSHP instruction, directive or ruling.	Suspension until complies	Decertification		
<b>EXAMINER QUALIFICATIONS</b>				
Examiner application indicates felony conviction in last five years.	Denial/Decertification			
Examiner driving history indicates conviction for any alcohol related enforcement contacts (DWI, DUI, BAC, DUID, etc) in MO or any other state within lasts five years.	Denial/Decertification			
Examiner driving history indicates a suspension, revocation, cancellation or disqualification in MO or any other state within last five years.	Denial/Decertification			
Examiner fails to attend required re-certification courses as required by the Director every three (3) years or when required based upon audit findings.	Suspension until re-certification course completed.	Decertification		

Examiner fails to report suspension, revocation, cancellation or disqualification.	Suspension up to one year or decertification.			
<b>SKILLS TEST ADMINISTRATION</b>				
Examiner encourages or accepts bribe or gratuity.	Decertification			
Examiner falsifies records or information or misrepresents by omitting any test requirement or procedure.	Suspension up to one year and/or decertification.			
Examiner fails to inform DOR/MSHP concerning civil or criminal actions related to skills test.	Suspension up to one year and/or decertification.			
Examiner administers skills test without proper CDL License and appropriate endorsements and/or restrictions.	30-day minimum suspension and re-audit.	Decertification		
Examiner knowingly re-tests failed applicant within same day.	Warning	30-day suspension	60-day suspension	Decertification
Examiner allows unauthorized passengers in the test vehicle during skills testing.	Warning and possible re-audit	30-day suspension	60-day suspension.	Decertification
Audit of examiner finds scoring and form completions inconsistent with TPT manual guidelines.	Re-audit and/or 30 day suspension	60 day suspension	Decertification	



**MISSOURI DEPARTMENT OF REVENUE THIRD PARTY TESTING PROGRAM  
SANCTIONS**

**TESTER**

**VIOLATIONS                      FIRST OFFENSE                      SECOND OFFENSE                      THIRD OFFENSE                      FOURTH OFFENSE**

<b>VIOLATIONS</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>	<b>FOURTH OFFENSE</b>
<b>TESTER RECORDS AND BUSINESS PRACTICES</b>				
Tester operates without Department of Revenue authorization.	Application denied for minimum of five (5) years.			
Tester does not maintain insurance as required per section C -3 in tester contract.	Suspended until Department receives proof of required insurance.	30 day suspension and must submit proof of required insurance to Department of Revenue.	Decertification	
Tester does not maintain certificate of authorization for use of test site(s) as required.	Suspended until receipt of authorization and posting of certificate.	30 day suspension and must receive authorization and post certificate	Decertification	
Tester uses non-certified, suspended or decertified examiner.	Decertification			
Tester uses examiner without Department of Revenue approval or allows examiner to test for more than one tester.	Decertification			
Tester does not adhere to fee scheduling.	Warning letter to TPT	30 day suspension	60 day suspension	Decertification
Tester representative fails to attend audit/inspection without notification.	30-day suspension	60-day suspension	Decertification	
Tester fails to comply with monthly reporting requirements.	Warning letter to TPT	30 day suspension	60 day suspension	Decertification
Tester fails to respond to DOR/MSHP request for information or fails to comply with DOR/MSHP instruction, directive or ruling.	Suspension until complies	Decertification		
Tester fails to maintain permanent structure and business street address.	Suspension until complies	Decertification		
Tester records not maintained at each test site in centralized location.	If audit can be completed, warning letter to TPT. If audit cannot be completed, warning letter to TPT and reschedule audit.	30-day suspension.	Indefinite suspension until complies	Decertification
Tester fails to notify DOR of any changes to tester or examiner status.	Warning	30-day suspension.	Decertification	

<b>TEST SITE FACILITIES</b>				
Site does not comply with basic control, pre-trip and skills course layout or space requirements.	Warning and/or up to 30 day suspension	Warning and/or up to 60 day suspension	One (1) year suspension or possible decertification.	Decertification
<b>TEST ADMINISTRATION</b>				
Tester encourages or accepts bribe or gratuity.	Decertification			
Tester falsifies records or information, or misrepresents by omitting, any test requirement or procedure or encourages/requires examiner to do the same.	Decertification			
Tester fails to inform DOR/MSHP concerning civil or criminal actions related to complaints regarding skills testing.	Suspension up to one year pending additional action or decertification.			
Tester allows examiner to administer skills test without proper CDL license and appropriate restrictions or endorsements.	30-day suspension and re-audit.	Decertification		
Tester allows examiner to administer tests during non-daylight hours.	30 day suspension	60 day suspension	Decertification	
Tester allows examiner to knowingly re-test failed applicant within same day.	Warning	30 day suspension	60 day suspension	Decertification
Tester allows examiner to administer skills tests with unauthorized passengers in test vehicle.	Warning	30 day suspension	60 day suspension	Decertification

*AUTHORITY: sections 302.720 and 302.765, RSMo 2000. Original rule filed Sept. 27, 2001, effective April 30, 2002. Emergency amendment filed April 12, 2002, effective April 30, 2002, expires Oct. 26, 2002. Amended: Filed April 12, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 10—Office of the Director**  
**Chapter 2—Civil Rights Compliance**

**PROPOSED AMENDMENT**

**19 CSR 10-2.010 Civil Rights Compliance Requirements.** The department is amending sections (1)–(5) and (9), subsections (1)(C), (5)(A) and (5)(F); deleting sections (6) and (7); and renumbering sections (8) and (9) and deleting the form from the *Code of State Regulations*.

*PURPOSE: This amendment eliminates the use of Department of Health Form DH-41 paragraph (6) and elevates the submission of documentation on civil rights requirement compliance to include assurances and implementation plan paragraph (7). It is proposed that these two requirements be replaced with an assurance agreement at the time of a new contract is set forth in subsection (5)(A). This proposed amendment also adds national origin which was inadvertently omitted from this rule.*

(1) The following definitions shall be used in the interpretation and enforcement of this rule:

(C) Civil rights requirements are the requirements of Title VI of the Civil Rights Act of 1964 (42 USC 2000d–2000d.6), Section 504 of the Rehabilitation Act of 1973 (P.L. 93-516), the Age Discrimination Act of 1975, Title II and Title III of the American Disabilities Act of 1990 and this rule.

(F) Compliance review is a review of a covered recipient agency conducted by the Department of Health and Senior Services [DOH] DHSS to determine compliance with the requirements of this rule;

(2) The [DOH] DHSS shall strive to assure that all public health care services and benefits are made available and provided to all eligible individuals without regard to race, color, national origin, age, sex or disability status.

(3) To eliminate duplication of civil rights compliance efforts, the [DOH] DHSS and the Department of Social Services (DSS) shall follow a cooperative agreement negotiated by the two (2) departments designating the responsibilities and relationships of each agency in carrying out Title XIX (Medicaid) programs.

(4) Contractors who provide goods to [DOH] DHSS are not subject to this rule.

(5) In all contracts for services, the [DOH] DHSS shall include clauses regarding civil rights.

(A) A covered recipient agency shall comply with the civil rights requirements defined in subsection (1)(C) of this rule. **A covered recipient agency will affirm compliance at the time of contract signing.**

(B) A covered recipient agency which is a government entity and is receiving federal funds through [DOH] DHSS shall have and maintain a personnel merit system.

(D) A covered recipient agency which receives or contract(s) with [DOH] DHSS and employs fifty (50) or more persons shall implement an affirmative action program that complies with the civil rights requirements.

(F) Each covered recipient agency shall print in easily read type on all public program communications this statement: Eligibility criteria for acceptance and participation in this program are administered on a nondiscriminatory basis regardless of race, color, **national origin**, age, sex or disability.

(G) Each covered recipient agency shall maintain a system for collecting racial/ethnic participation data. This data shall include

the number of recipients of services and shall be acceptable to [DOH] DHSS.

(H) Each covered recipient agency shall display [DOH] DHSS-approved nondiscrimination posters and policy statements in all facility areas frequented by employees, applicants and recipients of services.

(I) Each covered recipient agency shall display notices of the availability of complaint procedures and have appropriate guidelines in place for referring civil rights complaints and complainants to the [DOH] DHSS for review and resolution. The [DOH] DHSS shall notify the appropriate federal agency of the receipt of a complaint if that notification is required.

(K) If the covered recipient agency uses any funds from [DOH] DHSS and contracts in a subcontract, the contractor shall require the subcontractor to comply with subsections (5)(A)–(L) of this rule.

(L) The [DOH] DHSS shall have the right to enforce all applicable clauses in subsections (5)(A)–(K) of this rule by appropriate and reasonable procedures including, but not limited to, requests, reports, site visits and inspection of relevant documentation of the contractor.

*[(6) All covered recipient agencies in a contractual relationship with DOH shall prepare and submit for DOH approval documentation on their civil rights requirements compliance to include assurances and an implementation plan.]*

*[(7) DOH staff responsible for monitoring programs administered by DOH and contracts for delivery of services shall complete a civil rights compliance review using the Department of Health Form DH-41.]*

*[(8)] (6) Periodically the [DOH] DHSS shall assess the compliance level of covered recipient agencies by conducting a desk audit or on-site review on randomly selected agencies. An on-site civil rights compliance review shall be performed by the [DOH] DHSS when there is evidence of substantial noncompliance as shown by a desk audit or a complaint investigation.*

*[(9)] (7) If the contractor fails to comply with the terms of the civil rights assurance in the contract, [DOH] DHSS shall terminate the contract. Prior to termination of a contract, [DOH] DHSS shall give fifteen (15) days' notice to the contractor specifying the reasons why the department believes the contractor is not in compliance and shall provide the contractor an opportunity to show compliance with the contract. The contractor may request a conference with [DOH] DHSS during this period. The request shall be in writing to the director of the [DOH] DHSS.*

*AUTHORITY: Governor's Executive Order 87-6 and section 536.023.3, RSMo [1986] 2000. Original rule filed Sept. 8, 1992, effective April 8, 1993. Amended: Filed April 15, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Jackie Turpin, Department of Health and Senior Services, Office of Personnel, PO Box 570, 912 Wildwood, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH  
Division 10—Office of the Director  
Chapter 3—General and Family Physician Loan and  
Training Programs**

**PROPOSED RESCISSION**

**19 CSR 10-3.030 Medical School Loan Repayment Program.**  
This rule established guidelines for implementing the Medical School Loan Repayment Program.

*PURPOSE: This rule is being rescinded as changes in the authorizing statute and national program standards necessitate replacing the entire rule.*

*AUTHORITY: section 191.607, RSMo Supp. 1998. This rule was previously filed as 19 CSR 50-1.030. Original rule filed Nov. 14, 1988, effective April 28, 1989. Changed to 19 CSR 10-3.030 July 30, 1998. Rescinded: Filed April 15, 2002.*

*PUBLIC COST: This proposed rescission will cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will cost private entities less than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Harold Kirbey, Chief, Health Systems Development Unit, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 10—Office of the Director  
Chapter 3—General and Family Physician Loan and  
Training Programs**

**PROPOSED RULE**

**19 CSR 10-3.030 Health Professional Student Loan Repayment Program**

*PURPOSE: This rule establishes guidelines for implementing the Health Professional Student Loan Repayment Program that will reduce the burden of educational debt among selected health professionals in return for providing professional clinical services in areas of defined need.*

(1) The following definitions shall be used in interpretation and enforcement of this rule:

(A) Approved practice site means the practice location for which the department agreed to provide support;

(B) Area of defined need means a geographic area or population designated by the Missouri Department of Health and Senior Services as experiencing a shortage of accessible primary and preventive health care services;

(C) Department means the Missouri Department of Health and Senior Services;

(D) Director means the director of the Missouri Department of Health and Senior Services;

(E) Health care professional means a general dentist or primary care physician as defined in 191.600, RSMo.

(F) Hospital means a facility licensed in the state of Missouri pursuant to Chapter 197, RSMo;

(G) Licensing board means the Board of Registration for the Healing Arts and the Missouri State Dental Board within the Missouri Department of Economic Development;

(H) Primary care means the services provided by a general dentist or a physician engaged in general or family practice, internal medicine, pediatrics, or obstetrics and gynecology as his/her primary specialty;

(I) Qualifying loans means government and commercial loans for actual costs paid for tuition and educational costs and associated living expenses for the health professional;

(J) Sliding scale fee means a fee structure that provides adjustment to charges for all individuals under two hundred percent (200%) of the federal poverty limit, based upon family income and size.

(2) The department may contract with selected health care professionals to repay in total or in part, qualifying loans in exchange for an agreement to provide primary health care services to populations in need within the state.

(3) Applicants must submit a written request that contains all of the following information and documentation presented in the order they are listed in subsections (3)(A)–(J). Applications for participation that do not comply with these requirements will not be considered. Each request shall contain:

(A) A written request from the applicant for participation in the program;

(B) A detailed written description of the proposed practice site, including the facility in which the applicant will be working and the health care services currently provided at that site;

(C) Official notification from the applicable Missouri licensing board that the applicant is licensed in good standing;

(D) For physicians, a letter from the medical director of all hospitals at which the physician has or will have privileges delineating the status of the privileges. This should include when the privileges began or will begin, how they may have changed over time and an explanation for any changes;

(E) A written statement from the applicant's malpractice insurance carrier setting forth any claims that have been made against the applicant and the disposition of those claims;

(F) A written statement from the local public health agency, whose jurisdiction includes the applicant's proposed practice site, that the applicant's services are required by and are in the interest of the community;

(G) A copy of the applicant's employment contract for the proposed practice site for a period of no less than two (2) years;

(H) Documentation of agreement to provide care to the populations in the area of defined need, including:

1. Acceptance as a provider by the Missouri Medicaid agency; and

2. A copy of the sliding scale fee;

(I) Documentation of qualifying loans for which repayment is requested; and

(J) A signed release of information document to allow the department to obtain current information on qualifying loans from the appropriate institutions.

(4) Selection for participation in the Health Professional Student Loan Repayment Program will be prioritized utilizing the following criteria:

(A) The degree of need for health professional services (areas with a lack of access for the entire population will be given priority over those areas without access for specific populations);

(B) Recruitment of health professionals into an area will be given priority over retention of existing providers;

(C) Those employed by an organization with a history of service to the underserved may be given priority over other employment types including self-employed applicants; and

(D) Those approved practice sites participating with the department in the financing of the loan repayments.

(5) Participation in the Health Professional Student Loan Repayment Program shall consist of payments to individual health professionals under a written contract.

(A) The contract period shall be, at a minimum, two (2) years in length.

(B) Contract amounts shall not exceed the maximum amounts allowed under the National Health Service Corps Loan Repayment Program, 42 U.S.C. section 2541-1, P.L. 106-213.

(C) Payment for the contract shall be due the final quarter of the last year of the contract period.

(D) Prepayment of the contract amount may be made to facilitate placement in areas of need within the state.

(E) The department may approve contract extensions up to three (3) additional years beyond the original contract, not to exceed five (5) years in total.

(6) Participants shall supply the following to the department by July 1 of each year:

(A) Participant's name;

(B) Address of the participant's approved practice site(s);

(C) The number and characteristics of the patients served including:

1. Gender;

2. Race/ethnicity;

3. Age distributions; and

4. Payor source (Medicaid, Medicare, commercial insurance or sliding scale fee);

(D) Letter from the applicable licensing board stating that the participant is licensed in good standing in Missouri; and

(E) Documentation of remaining educational debt.

(7) If an individual violates the written contract the state shall be entitled to recover from the individual an amount equal to the sum of:

(A) The total of the amounts prepaid by the state on behalf of the individual and the interest on those amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum prevailing rate as determined by the Treasurer of the United States;

(B) An amount equal to any damages incurred by the department as a result of the breach;

(C) Any legal fees or associated costs incurred by the department or the state of Missouri in the collection of damages.

*AUTHORITY: section 191.607, RSMo Supp. 2001. This rule was previously filed as 19 CSR 50-1.030. Original rule filed Nov. 14, 1988, effective April 28, 1989. Changed to 19 CSR 10-3.030 July 30, 1998. Rescinded and readopted: Filed April 15, 2002.*

*PUBLIC COST: This proposed rule will cost state agencies and political subdivisions \$275,000 annually in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities approximately five hundred dollars (\$500) annually in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Harold Kirby, Chief, Health Systems Development Unit, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: **Title 19 -- Missouri Department of Health and Senior Services**

Division: **Division 10 -- Office of the Director**

Chapter: **Chapter 3 -- General and Family Physician Loan and Training Programs**

Type of Rule Making: **Proposed Rule**

Rule Number and Name: **19 CSR 10-3.030 Health Professional Student Loan Repayment Program**

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
DHSS	\$275,000 annually

**III. WORKSHEET**

Category				Total	
Personnel Services				0	
Equipment and Expense				0	
<b>PS and E&amp;E Subtotal</b>				<b>0</b>	
	<b>FTE</b>	<b>0.00</b>			
Loan Repayment Payments		<b>Number</b>	<b>State Amount</b>	<b>Federal Match</b>	
	Dentists	6	12,500	12,500	150,000
	Physicians	5	12,500	12,500	125,000
<b>Total Annual Costs</b>					<b>275,000</b>

**IV. ASSUMPTIONS**

The cost indicated in the worksheet are those currently appropriated by the General Assembly, less Governor's withhold, for the operations of the Health Professional Student Loan Repayment Program. Annual contract amounts are a maximum of \$25,000 per practitioner, half of which is provided through a federal matching grant.

FISCAL NOTE  
PRIVATE ENTITY COST

## I. RULE NUMBER

Title: **Title 19 -- Missouri Department of Health and Senior Services**Division: **Division 10 -- Office of the Director**Chapter: **Chapter 3 -- General and Family Physician Loan and Training Programs**Type of Rule Making: **Proposed Rule**Rule Number and Name: **19 CSR 10-3.030 Health Professional Student Loan Repayment Program**

## II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
40	Licensed primary care physicians, dentists and advanced practice nurses.	\$500 annually

## III. WORKSHEET

Forty applicants per year at a maximum cost of \$12.50 each for an annual cost of \$500 or less in the aggregate.

## IV. ASSUMPTIONS

The costs associated with the application could include mail and copying costs for application materials. Applications are one page (front and back) and require copies of verification of educational debt, on the average five (5) pages in length. The maximum copy cost reported by applicants is \$0.25 per page. The estimated copy costs for each application would be \$1.50. Mailing costs are estimated at a maximum of \$11.00 to allow for overnight or special carrier costs. The total estimated cost would then be \$12.50 per application. The annual aggregate cost will be appropriately \$500 annually.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 25—Division of Administration**  
**Chapter 36—Testing for Metabolic Diseases**

**PROPOSED AMENDMENT**

**19 CSR 25-36.010 Testing for Metabolic and Genetic Disorders.** The department is amending section (6).

*PURPOSE: This amendment changes the fee for testing specimens for metabolic and genetic disorders submitted to the State Public Health Laboratory.*

(6) A fee of *[thirteen dollars (\$13)] up to twenty-five dollars (\$25)* shall be charged for each specimen collection kit. Each specimen collection kit represents one (1) specimen. If repeat specimens are required under this rule, the fee// shall be charged for each specimen collection kit required to obtain each specimen. The Department of Health and Senior Services may collect the fee from any entity or individual described in 191.331.1, RSMo.

*AUTHORITY: sections 701.322, RSMo Supp. 2001 and 191.331[, RSMo Supp. 1997], and 192.006, RSMo [Supp. 1996] 2000 [and 192.900 1994]. This rule was previously filed as 13 CSR 50-143.010 and 19 CSR 20-36.010. Original rule filed Sept. 29, 1965, effective Oct. 13, 1965. For intervening history, please consult the Code of State Regulations. Amended: Filed April 9, 2002.*

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

*PRIVATE COST: This proposed amendment will cost private entities approximately \$2,500,000 annually in the aggregate of the rule. See detailed fiscal note for assumptions.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Dr. Eric Blank, State Public Health Laboratory, Department of Health, PO Box 570, Jefferson City, MO 65102, (573) 751-3334. To be considered, comments must be received within thirty (30) days after publication in the Missouri Register. No public hearing is scheduled.*



**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**Title: 19 -- Department of Health and Senior ServicesDivision: 25 -- Division of AdministrationChapter: 36 -- Testing for Metabolic DiseasesType of Rule Making: Proposed AmendmentRule Number and Name: 36.010 -- Testing for Metabolic and Genetic Disorders**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
75,000	Private citizens	\$250,000 annually
40	Insurance companies	\$2,250,000 annually

**III. WORKSHEET**

Number of newborns Tested -- 75,000

Number of samples tested -- 100,000

Estimated revenue --  $100,000 \times \$25 = \$2,500,000$  annually**IV. ASSUMPTIONS**

Approximately 75,000 newborns are required to be tested for metabolic disorders. Some children require more than one sample be tested. A charge of \$25 per sample tested will recover state laboratory costs. Based upon FY 00 workload figures, an estimated 100,000 samples will be subject to the \$25 charge. It is assumed that 90% of the charges will be paid by health maintenance organizations or other forms of health insurance. The remaining 10% will be paid by the private individuals whose child is being tested.