

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission

Chapter 3—Filing and Reporting Requirements

PROPOSED AMENDMENT

4 CSR 240-3.180 Submission of Electric Utility Residential Heat-Related Service Cold Weather Report. The commission is amending section (1).

PURPOSE: This amendment makes public more efficient information in aggregate form as a standing practice, removing need for commission approval to release individual company reports upon a party's request, as required by section 386.480, RSMo 2000.

(1) Each utility providing heat-related utility service shall submit a report to the consumer services department of the commission for

each calendar month no later than the twentieth day of the following month. The utility shall provide a copy of each report to the Office of the Public Counsel. *[The report shall include the information listed below]* **The utility shall report for each operational district into which the utility has divided its Missouri service territory[.] the number of days it was permitted to discontinue service under 4 CSR 240-13.055, and the utility shall separately report on the information listed below for customers receiving energy assistance and customers who are affected by 4 CSR 240-13.055 and known not to be receiving energy assistance. All information submitted shall be considered public information; however, no customer-specific information shall be reported or made public.** Utilities providing both electric and gas service shall report the information separately for their gas-only territory[.].

[(A) The number of days on which discontinuance of service was not prohibited by the cold weather rule's daily temperature moratorium (4 CSR 240-13.055(4));

(B) The utility shall report the following information for all residential customers and state separately the information for those on whose behalf the utility has received notice of qualification for publicly funded energy assistance:

1. The number of residential customers who agreed to pay for their heat-related utility service under a payment agreement in accordance with 4 CSR 240-13.055(8);

2. The number of residential customers whose heat-related utility service was discontinued due to failure to make timely payments under a 4 CSR 240-13.055(8) agreement;

3. The total amount due and owing from residential customers whose utility service was discontinued due to failure to make timely payments under a 4 CSR 240-13.055(8) agreement;

4. The number of residential customers whose heat-related utility service was involuntarily discontinued and who were not participants under a 4 CSR 240-13.055(8) payment agreement; and

5. The total amount due and owing from residential customers whose heat-related utility service was involuntarily discontinued and who were not participants under a 4 CSR 240-13.055(8) payment agreement.]

(A) How many customers were disconnected at the end of the period:

1. Of those disconnected, how many customers had service discontinued for non-payment during the period;

2. Of those disconnected during the period, how many customers were restored to service during the period.

(B) Of customers reported as disconnected at the end of the period:

1. How many had broken a cold weather rule pay agreement;

2. How many had broken a non-cold weather rule pay agreement;

3. How many had not been on a pay agreement.

(C) Of those customers reconnected during the period:

1. How many customers received energy assistance (pledged or paid) from:

A. Low Income Home Energy Assistance Program (LIHEAP);

B. Energy Crisis Invention Program (ECIP);

C. Other.

2. How much energy assistance was provided by:

A. LIHEAP;

B. ECIP;

C. Customer;

D. Other.

(D) Of customers restored to service during the period:

1. How many were put on a cold weather rule pay agreement;
2. How many were put on a non-cold weather rule pay agreement.

(E) How much was owed by those disconnected at the end of the period:

1. How much was owed by those disconnected during the period;
2. How much was owed by those reconnected during the period.

(F) How many customers were registered under 4 CSR 240-13.055(1)(D) at the end of the period:

1. How many customers registered during the period;
2. How many of such registered customers had service discontinued during the period.

(G) For how many customers during the period did the utility receive:

1. LIHEAP;
2. ECIP;
3. Other assistance.

(H) How much cash did the utility receive on behalf of customers during the period from:

1. LIHEAP;
2. ECIP;
3. Others.

(I) How many customers who requested reconnection under terms of this rule were refused service pursuant to section 4 CSR 240-13.055(9).

(J) How many customers received energy assistance insufficient in amount to retain or restore service.

(K) The number of customers who agreed to pay for their heat-related utility service under a payment agreement in accordance with 4 CSR 240-13.055.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed April 24, 2003.

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

PRIVATE COST: This proposed amendment will cost private entities seventeen thousand and one hundred dollars (\$17,100) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before July 3, 2003, and should include a reference to commission Case No. AX-2003-0198. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for July 9, 2003, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4-DEPARTMENT OF ECONOMIC DEVELOPMENT

Division: 240-Public Service Commission

Chapter: 3.180 (identical to 3.250)

Type of Rulemaking: proposed amendment

Rule Number and Name: 4 CSR 240-3.180 Submission of Electric Utility Residential

Heat-Related Service Cold Weather Report

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate over a four year period as to the cost of compliance with the rule by the affected entities:
2	Electric Utility Companies	\$ 17,100

III. WORKSHEET

<u>Utility Type:</u>	<u>One Time Estimated Cost</u>	<u>Annualized Four Year Cost</u>	<u>Total</u>
<i>Electric Only</i>			
KCPL	\$ 17,100	None	\$ 17,100
Citizen Electric	No Submission	-----	-----

IV. ASSUMPTIONS

The Cold Weather Reporting Rule revisions that are proscribed in the amendment are expected to have a life of four (4) years.

The Staff of the Missouri Public Service Commission collects cold weather reports from each utility providing heat-related utility service. Presently, Staff obtains more detailed information from the utilities using ad hoc queries, but not as part of the current standard cold weather rule reports. The proposed revisions to the Cold Weather Rule reporting requirements will provide the Commission more detailed information that will improve its ability to assess the effectiveness of the Cold Weather Rule provisions and enable policymakers, including state legislators and the Missouri Congressional delegation, to better understand the need for funding low-income energy assistance.

In addition, a major reason for revising and amending the Cold Weather Rule reporting requirements of 4 CSR 240-3.180 and 4 CSR 240-3.250 [formerly 4 CSR 240-13.055(12)] is to make public such information in aggregate form as a standing practice, removing the need for Commission approval to release individual company reports upon a party's request, as required by §386.480 RSMo 2000.

Companies have not expressly factored in the savings benefit that will accrue from the elimination of time spent developing responses to numerous ad hoc queries that are posed by the Staff under the present rule.

Companies were invited to provide estimates of the costs associated with complying with the revised Cold Weather Reporting Rule requirements. Company estimates that were submitted generally reflect one-time computer system programming changes that would take a period of up to six months to implement. Some companies submitted estimated monthly (worksheet annualized) costs for program and systems maintenance.

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

PROPOSED AMENDMENT

4 CSR 240-3.250 Submission of Gas Utility Residential Heat-Related Service Cold Weather Report. The commission is amending section (1).

PURPOSE: This amendment makes public more efficient information in aggregate form as a standing practice, removing need for commission approval to release individual company reports upon a party's request, as required by section 386.480, RSMo 2000.

(1) Each gas utility providing heat-related utility service shall submit a report to the consumer services department of the commission for each calendar month no later than the twentieth day of the following month. The utility shall provide a copy of each report to the Office of the Public Counsel. *[The report shall include the information listed below] The utility shall report for each operational district into which the utility has divided its Missouri service territory.[.] the number of days it was permitted to discontinue service under 4 CSR 240-13.055, and the utility shall separately report on the information listed below for customers receiving energy assistance and customers who are affected by 4 CSR 240-13.055 and known not to be receiving energy assistance. All information submitted shall be considered public information; however, no customer-specific information shall be reported or made public. Utilities providing both electric and gas service shall report the information separately for their gas-only territory:*

[(A) The number of days on which discontinuance of service was not prohibited by the cold weather rule's daily temperature moratorium (4 CSR 240-13.055(4));

(B) The utility shall report the following information for all residential customers and state separately the information for those on whose behalf the utility has received notice of qualification for publicly funded energy assistance:

1. The number of residential customers who agreed to pay for their heat-related utility service under a payment agreement in accordance with 4 CSR 240-13.055(8);

2. The number of residential customers whose heat-related utility service was discontinued due to failure to make timely payments under an agreement made pursuant to 4 CSR 240-13.055(8);

3. The total amount due and owing from residential customers whose utility service was discontinued due to failure to make timely payments under an agreement made pursuant to 4 CSR 240-13.055(8);

4. The number of residential customers whose heat-related utility service was involuntarily discontinued and who were not participants under an agreement made pursuant to 4 CSR 240-13.055(8); and

5. The total amount due and owing from residential customers whose heat-related utility service was involuntarily discontinued and who were not participants under an agreement made pursuant to 4 CSR 240-13.055(8).]

(A) How many customers were disconnected at the end of the period:

1. Of those disconnected, how many customers had service discontinued for non-payment during the period;

2. Of those disconnected during the period, how many customers were restored to service during the period.

(B) Of customers reported as disconnected at the end of the period:

1. How many had broken a cold weather rule pay agreement;

2. How many had broken a non-cold weather rule pay agreement;

3. How many had not been on a pay agreement.

(C) Of those customers reconnected during the period:

1. How many customers received energy assistance (pledged or paid) from:

A. Low Income Home Energy Assistance Program (LIHEAP);

B. Energy Crisis Intervention Program (ECIP);

C. Other.

2. How much energy assistance was provided by:

A. LIHEAP;

B. ECIP;

C. Customer;

D. Other.

(D) Of customers restored to service during the period:

1. How many were put on a cold weather rule pay agreement;

2. How many were put on a non-cold weather rule pay agreement.

(E) How much was owed by those disconnected at the end of the period:

1. How much was owed by those disconnected during the period;

2. How much was owed by those reconnected during the period.

(F) How many customers were registered under 4 CSR 240-13.055(1)(D) at the end of the period:

1. How many customers registered during the period;

2. How many of such registered customers had service discontinued during the period.

(G) For how many customers during the period did the utility receive:

1. LIHEAP;

2. ECIP;

3. Other assistance.

(H) How much cash did the utility receive on behalf of customers during the period from:

1. LIHEAP;

2. ECIP;

3. Others.

(I) How many customers who requested reconnection under terms of this rule were refused service pursuant to section 4 CSR 240-13.055(9).

(J) How many customers received energy assistance insufficient in amount to retain or restore service.

(K) The number of customers who agreed to pay for their heat-related utility service under a payment agreement in accordance with 4 CSR 240-13.055.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed April 24, 2003.

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

PRIVATE COST: This proposed amendment will cost private entities sixty-seven thousand and two hundred dollars (\$67,200) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before July 3, 2003, and should include a reference to commission Case No. AX-2003-0198. If

comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for July 9, 2003, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4-DEPARTMENT OF ECONOMIC DEVELOPMENT

Division: 240-Public Service Commission

Chapter: 3.250 (identical to 3.180)

Type of Rulemaking: proposed amendment

Rule Number and Name: 4 CSR 240-3.250 Submission of Gas Utility Residential Heat-
Related Service Cold Weather Report

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate over a four year period as to the cost of compliance with the rule by the affected entities:
2	Gas and Electric Utility Companies	\$ 35,000
4	Gas Utility Companies	\$ 32,200

III. WORKSHEET

<u>Utility Type:</u>	<u>One Time Estimated Cost</u>	<u>Annualized Four Year Cost</u>	<u>Total</u>
<i>Gas & Electric</i>			
Ameren	\$ 5,000	None	\$ 5,000
Aquila	\$10,000	\$ 5,000/yr x4= \$20,000 ¹	\$ 30,000
<i>Gas Only</i>			
Laclede Gas	\$15,000 ²	None	\$ 15,000
Fidelity ³	None	\$ 1,800/yr x4=\$ 7,200	\$ 7,200
Atmos	None	None	None
MGE	\$ 10,000	None	\$ 10,000
Southern Missouri Gas ⁴	No Submission	-----	-----

IV. ASSUMPTIONS

¹ Aquila submitted an annualized cost of \$50,000 without support or explanation. This has been scaled back to \$5,000/yr.

² This is an average of the cost range submitted by Laclede.

³ Refer to Small Business Takings Analysis.

⁴ Refer to Small Business Takings Analysis.

The Cold Weather Reporting Rule revisions that are proscribed in the amendment are expected to have a life of four (4) years.

The Staff of the Missouri Public Service Commission collects cold weather reports from each utility providing heat-related utility service. Presently, Staff obtains more detailed information from the utilities using ad hoc queries, but not as part of the current standard cold weather rule reports. The proposed revisions to the Cold Weather Rule reporting requirements will provide the Commission more detailed information that will improve its ability to assess the effectiveness of the Cold Weather Rule provisions and enable policymakers, including state legislators and the Missouri Congressional delegation, to better understand the need for funding low-income energy assistance.

In addition, a major reason for revising and amending the Cold Weather Rule reporting requirements of 4 CSR 240-3.250 (identical to 4 CSR 240-3.180) [both are formerly 4 CSR 240-13.055(12)] is to make public such information in aggregate form as a standing practice, removing the need for Commission approval to release individual company reports upon a party's request, as required by §386.480 RSMo 2000.

Companies have not expressly factored in the savings benefit that will accrue from the elimination of time spent developing responses to numerous ad hoc queries that are posed by the Staff under the present rule.

Companies were invited to provide estimates of the costs associated with complying with the revised Cold Weather Reporting Rule requirements. Company estimates that were submitted generally reflect one-time computer system programming changes that would take a period of up to six months to implement. Some companies submitted estimated monthly (worksheet annualized) costs for program and systems maintenance.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED RULE

4 CSR 240-40.018 Natural Gas Price Volatility Mitigation

PURPOSE: This rule represents a statement of commission policy that natural gas local distribution companies should undertake diversified natural gas purchasing activities as part of a prudent effort to mitigate upward natural gas price volatility and secure adequate natural gas supplies for their customers.

(1) Natural Gas Supply Planning Efforts to Ensure Price Stability.

(A) As part of a prudent planning effort to secure adequate natural gas supplies for their customers, natural gas utilities should structure their portfolios of contracts with various supply and pricing provisions in an effort to mitigate upward natural gas price spikes, and provide a level of stability of delivered natural gas prices.

(B) In making this planning effort, natural gas utilities should consider the use of a broad array of pricing structures, mechanisms, and instruments, including, but not limited to, those items described in (2)(A) through (2)(G), to balance market price risks, benefits, and price stability. Each of these mechanisms may be desirable in certain circumstances, but each has unique risks and costs that require evaluation by the natural gas utility in each circumstance.

(C) Part of a natural gas utility's balanced portfolio may be higher than spot market price at times, and this is recognized as a possible result of prudent efforts to dampen upward volatility.

(2) Pricing Structures, Mechanisms and Instruments.

- (A) Natural Gas Storage;
- (B) Fixed Price Contracts;
- (C) Call Options;
- (D) Collars;
- (E) Outsourcing/Agency Agreements;
- (F) Futures Contracts; and
- (G) Other tools utilized in the market for cost-effective management of price and/or usage volatility.

AUTHORITY: sections 386.250, RSMo 2000 and 393.130, RSMo Supp. 2002. Original rule filed May 1, 2003.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before July 3, 2003, and should include a reference to Commission Case No. GX-2002-478. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed rule is scheduled for July 10, 2003, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with spe-

cial needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 120—New Manufactured Homes**

PROPOSED RULE

4 CSR 240-120.085 Inspection Fee

PURPOSE: This rule outlines the procedure and establishes the fee to be charged by the commission for the inspection of manufactured homes as a result of inspection requests received pursuant to section 700.040, RSMo.

(1) The commission shall charge each manufacturer and each dealer as defined in Chapter 700, RSMo, an inspection fee for all complaints or requests for inspections received from homeowners.

(2) The fee shall be paid equally by the manufacturer of the home and the dealer who sold the home to the consumer.

(3) The homeowner must complete a consumer inspection form as provided by the commission describing the homeowner's concerns.

(4) The director shall schedule an inspection within thirty (30) days from the date the consumer inspection form is received.

(5) The inspection will address all concerns listed in the consumer inspection form. Any other deficiencies or defects identified during the inspection will also be forwarded to the manufacturer and/or dealer for corrective action.

(6) The manufacturer and the dealer will be sent a copy of the inspection report within ten (10) working days from the date of the inspection.

(7) Each manufacturer and each dealer must submit, along with the assessed fee, a written plan of action to be taken by each to correct any statutory, rule or code violations identified by the commission within thirty (30) working days from the date of the inspection. To avoid further action by the commission, corrections must be made by the manufacturer and/or dealer within fifty (50) working days from the date of the inspection.

(8) If recommended by the director, the commission may waive the fee for either the dealer or the manufacturer or both, if it is found during an inspection that there is neither any material defect, nor material violation of Chapter 700, RSMo, nor any material violation of Part 3280 of the Manufactured Home Construction and Safety Standards Code.

(9) The fee shall be implemented upon the date of the rule on all inspections conducted after the effective date of the rule.

(10) The commission will send written notification to each licensed manufacturer and each licensed dealer giving the date the fee is to be implemented.

(11) The fee shall be two hundred dollars (\$200) per inspection for both the manufacturer and the dealer, totaling four hundred dollars (\$400). The fee shall be submitted on a form provided by the commission. There shall be no re-inspection fee charged by the commission if the identified deficiencies have been corrected.

(12) Re-inspections reflecting corrections have not been made or that material deficiencies still exist, as determined by the director, may result in an additional fee to be paid by the manufacturer or dealer responsible for making the corrections. Said re-inspection fee shall not exceed two hundred dollars (\$200) per inspection for the manufacturer and/or the dealer.

(13) The commission shall assess an inspection fee of four hundred dollars (\$400) for all third party requests for inspections. Third party requests for inspections must be submitted in writing to the commission and the inspection fee must accompany the request.

(14) The following situations shall constitute grounds for the denial, suspension, revocation, or placing on probation of a manufacturer or dealer certificate of registration:

(A) Failure to pay the inspection fees within ten (10) days of their prescribed due date;

(B) Failure to pay the fee by the prescribed due date for two (2) consecutive months; or

(C) Failure to pay the fee by the prescribed due date for any four (4) of the preceding twelve (12) months.

AUTHORITY: section 700.040, RSMo 2000. Original rule filed May 1, 2003.

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

PRIVATE COST: This proposed rule is estimated to cost private entities approximately seventy-five thousand dollars (\$75,000) annually for the life of the rule.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: _____ 4 _____
 Division: _____ 240 Public Service Commission _____
 Chapter: _____ 120 New Manufactured Homes _____
 Type of Rulemaking: _____ Proposed Rule _____
 Rule Number and Name: _____ 4 CSR 240-120.085 Inspection Fee _____

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classifications by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities
There are approximately 360 active manufacturers and dealers.	Manufactured Housing Manufacturers and Dealers	\$75,000 in the first year and a similar amount in succeeding years.

III. WORKSHEET

1. Fiscal Year 2002 dollars were used to estimate costs. No adjustment for inflation has been applied.
2. 150 inspections @ \$400 per inspection – \$60,000. 75 re-inspections @ \$200 per re-inspection = \$15,000.

IV. ASSUMPTIONS

1. The Missouri Public Service Commission (MoPSC) will inspect manufactured homes to assure compliance with this rule.
2. This estimate is made for this rule on a stand-alone basis.
3. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.
4. FY 2002 reflects approximately 150 inspections and 150 re-inspections were conducted on manufactured homes. We anticipate with the implementation of this rule the number of re-inspections will decrease by 50% and will only apply to one party.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes**

PROPOSED RULE

4 CSR 240-121.065 Inspection Fee

PURPOSE: This rule outlines the procedure and establishes the fee to be charged by the commission for the inspection of pre-owned manufactured homes as a result of inspection requests received pursuant to section 700.040, RSMo.

- (1) The commission shall charge the manufacturer as defined in Chapter 700, RSMo, an inspection fee for all complaints or requests for inspections received.
- (2) The fee shall be paid by the manufacturer of the home.
- (3) The homeowner must complete a consumer inspection form as provided by the commission describing the homeowner's concerns.
- (4) The director shall schedule an inspection within thirty (30) days from the date the consumer inspection form is received.
- (5) The inspection will address all concerns listed in the inspection form. Any other deficiencies or defects identified during the inspection will also be forwarded to the manufacturer.
- (6) The manufacturer will be sent a copy of the inspection report within ten (10) working days from the date of the inspection.
- (7) Each manufacturer must submit, along with the assessed fee, a written plan of action to be taken to correct any statutory, rule or code violations identified by the commission within thirty (30) working days from the date of the inspection. To avoid further action by the commission, corrections must be made by the manufacturer within fifty (50) working days from the date of the inspection.
- (8) The commission may waive the fee for the manufacturer, if it is determined during the inspection that there were no material defects or violations of Chapter 700, RSMo, the rules or the code as determined by the director.
- (9) The fee shall be implemented upon the effective date of the rule on all inspections conducted after said date.
- (10) The commission will send written notification to each licensed manufacturer giving the date the fee is to be implemented.
- (11) The fee shall be four hundred dollars (\$400) per inspection to be paid by the manufacturer. The fee shall be submitted with a form provided by the commission.
- (12) Re-inspections reflecting corrections have not been made or that material deficiencies still exist as determined by the director may result in an additional fee to be paid by the manufacturer. Said re-inspection fee shall not exceed four hundred dollars (\$400) per inspection.
- (13) The commission shall assess an inspection fee of four hundred dollars (\$400) for all third party requests for inspections. Third party requests for inspections must be submitted in writing to the commission and the inspection fee must be paid prior to the inspection.

(14) The following situations shall constitute grounds for the denial, suspension, revocation, or placing on probation of a manufacturers certificate of registration:

- (A) Failure to pay fees within ten (10) days of their prescribed due date;
- (B) Failure to pay fees by the prescribed due date for two (2) consecutive months; or
- (C) Failure to pay fees by the prescribed due date for any four (4) of the preceding twelve (12) months.

AUTHORITY: sections 700.040 and 700.115, RSMo 2000. Original rule filed May 1, 2003.

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

PRIVATE COST: This proposed rule is estimated to cost private entities approximately two thousand dollars (\$2,000) annually in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: _____ 4 _____

Division: _____ 240 Public Service Commission _____

Chapter: _____ 121 Pre-Owned Manufactured Homes _____

Type of Rulemaking: _____ Proposed Rule _____

Rule Number and Name: _____ 4 CSR 240-121.065 Inspection Fee _____

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classifications by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities
There are approximately 90 active manufacturers.	Manufactured Housing Manufacturers	\$2,000 in the first year and a similar amount in succeeding years.

III. WORKSHEET

1. Fiscal Year 2002 dollars were used to estimate costs. No adjustment for inflation has been applied.
2. 5 inspections @ \$400 per inspection = \$2,000.

IV. ASSUMPTIONS

1. The Missouri Public Service Commission (MoPSC) will inspect pre-owned manufactured homes to assure compliance with this rule.
2. This estimate is made for this rule on a stand-alone basis.
3. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.
4. FY 2002 reflects approximately 5 inspections were conducted on pre-owned manufactured homes.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 123—Modular Units**

PROPOSED RULE

4 CSR 240-123.095 Inspection Fee

PURPOSE: This rule outlines the procedure and establishes the fee to be charged by the commission for the inspection of modular units as a result of inspection requests received pursuant to section 700.040, RSMo.

- (1) The commission shall charge each manufacturer and each dealer as defined in Chapter 700, RSMo, an inspection fee for all complaints or requests for inspections received from modular unit owners.
- (2) The fee shall be paid equally by the manufacturer of the modular unit and the dealer who sold the unit to the consumer.
- (3) The owner must complete a consumer inspection form as provided by the commission describing the owner's concerns.
- (4) The director shall schedule an inspection within thirty (30) days from the date the consumer inspection form is received.
- (5) The inspection will address all concerns listed in the inspection form. Any other deficiencies or defects identified during the inspection will also be forwarded to the manufacturer and/or dealer for corrective action.
- (6) The manufacturer and the dealer will be sent a copy of the inspection report within ten (10) working days from the date of the inspection.
- (7) Each manufacturer and each dealer must submit, along with the assessed fee, a written plan of action to be taken by each to correct any statutory, rule or code violations identified by the commission within thirty (30) working days from the date of the inspection. To avoid further action by the commission, corrections must be made by the manufacturer and/or dealer within fifty (50) working days from the date of the inspection.
- (8) If recommended by the director, the commission may waive the fee for either the dealer or the manufacturer or both, if it is found during an inspection that there is neither any material defect, nor material violation of Chapter 700, RSMo, nor any material violation of the International Building Code or the International Residential Code.
- (9) The fee shall be implemented upon the date of the rule on all inspections conducted after the effective date of the rule.
- (10) The commission will send written notification to each licensed manufacturer and each licensed dealer giving the date the fee is to be implemented.
- (11) The fee shall be two hundred dollars (\$200) per inspection for both the manufacturer and the dealer, totaling four hundred dollars (\$400). The fee shall be submitted on a form provided by the commission. There shall be no re-inspection fee charged by the commission if the identified deficiencies have been corrected.
- (12) Re-inspections reflecting corrections have not been made or that material deficiencies still exist, as determined by the director, may result in an additional fee to be paid by the manufacturer or dealer responsible for making the corrections. Said re-inspection fee shall

not exceed two hundred dollars (\$200) per inspection for the manufacturer and/or the dealer.

(13) The commission shall assess an inspection fee of four hundred dollars (\$400) for all third party requests for inspections. Third party requests for inspections must be submitted in writing to the commission and the inspection fee must accompany the request.

(14) The following situations shall constitute grounds for the denial, suspension, revocation, or placing on probation of a manufacturer or dealer certificate of registration:

(A) Failure to pay the inspection fee within ten (10) days of their prescribed due date;

(B) Failure to pay the fee by the prescribed due date for two (2) consecutive months; or

(C) Failure to pay the fee by the prescribed due date for any four (4) of the preceding twelve (12) months.

AUTHORITY: section 700.040, RSMo 2000. Original rule filed May 1, 2003.

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

PRIVATE COST: This proposed rule is estimated to cost private entities approximately five thousand dollars (\$5,000) annually for the life of the rule.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4

Division: 240 Public Service Commission

Chapter: 123 Modular Units

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-123.095 Inspection Fee

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classifications by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities
There are approximately 136 active manufacturers and dealers.	Modular Unit Manufacturers and Dealers	\$5,000 in the first year and a similar amount in succeeding years.

III. WORKSHEET

1. Fiscal Year 2002 dollars were used to estimate costs. No adjustment for inflation has been applied.
2. 10 inspections @ \$400 per inspection = \$4,000. 5 re-inspections @ \$200 per re-inspection = \$1,000.

IV. ASSUMPTIONS

1. The Missouri Public Service Commission (MoPSC) will inspect modular units to assure compliance with this rule.
2. This estimate is made for this rule on a stand-alone basis.
3. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.
4. FY 2002 reflects approximately 10 inspections and 10 re-inspections were conducted on modular units. We anticipate with the implementation of this rule the number of re-inspection will decrease by 50% and will only apply to one party.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of Instruction
Chapter 310—Incentives for School Excellence Program**

PROPOSED RESCISSION

5 CSR 50-310.010 General Provisions. This rule established guidelines and procedures for applying and granting funds for innovative and exemplary programs designed to improve instruction in classrooms, schools and school districts.

PURPOSE: This rule is rescinded because no funds were appropriated to fund the program since Fiscal Year 2001. The Incentives for School Excellence Program was generated in 1985 and the rule became effective in 1986.

AUTHORITY: section 160.264, RSMo 1986. Original rule filed Feb. 26, 1986, effective May 29, 1986. Amended: Filed Dec. 11, 1986, effective March 26, 1987. Amended: Filed May 1, 1987, effective Aug. 27, 1987. Rescinded: Filed April 23, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, Attn: Susan Cole, Coordinator of State Programs, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accreditation**

PROPOSED AMENDMENT

5 CSR 50-340.110 Policies and Standards Relating to Academically Deficient Schools. The State Board of Education is amending the Purpose and sections (1), (2) and (3).

PURPOSE: This proposed amendment clarifies definitions and reflects the Department of Elementary and Secondary Education's ability to identify, support and assist academically deficient schools.

PURPOSE: This rule establishes the criteria and procedures to be used to identify academically deficient schools and sets the standards to be used for an educational audit [in order to implement section 160.538, RSMo].

(1) For the purpose of this rule[—]:

(A) A "school" shall mean a grouping of grade levels reported by a school district under a building number used for reporting school data to the Department of Elementary and Secondary Education (DESE). A physical structure may contain more than one (1) "school." A school designated as an elementary school, a middle school, a junior high school or a high school and assigned a number by [the department] DESE shall be included in the listing of schools subject to this rule;

(B) "Concerned school" means any school which [meets the criteria in subsections (2)(A) and (2)(B)] has fifteen percent

(15%) or more students in the Step 1 and Progressing levels using the results of the Missouri Assessment Program (MAP) [, the assessment system developed pursuant to the provisions of section 160.518, RSMo. Only schools containing one (1) or more of the assessed grade levels shall be considered as a concerned school];

(C) "State-determined academically deficient school" shall mean a concerned school whose MAP results for two (2) consecutive testing years place the school in the lowest fifty (50) schools when considering the percent of students who score in Step 1 and Progressing levels on the MAP and who are [identified as] declared academically deficient by the State Board of Education (board);

(D) "Locally determined academically deficient school" shall mean a school in a district whose graduation rate is below sixty-five percent (65%) as defined in [section 160.011, RSMo,] state law that meets the fifteen percent (15%) [criteria set in subsection (2)(B)] or more students in the Step 1 and Progressing levels on the MAP and is determined to be academically deficient by the local board of education;

(2) Determination of academically deficient schools by the state[—] shall be as follows:

[(A) The list of potential concerned schools will first be made by identifying all schools in K-12 districts whose average graduation rate for the most recent three (3) years is lower than one (1) standard deviation below the mean graduation rate for all K-12 districts for the most recent three (3) years in addition to all schools in K-8 districts;]

[(B)] (A) Concerned schools will be those [from subsection 2(A)] that have fifteen percent (15%) or more students in Step 1 and Progressing levels using the MAP results. This percent will be determined by adding the numbers of students scoring at the Step 1 and Progressing levels in each subject area assessed in the school for the most recent two (2) years. That sum will be divided by the corresponding sum of the "reportable students" on the same MAP assessments administered in that school, and will be stated as a percent, carried to four (4) places;

[(C)] (B) Each year, the lowest fifty (50) concerned schools (excluding academically deficient schools) will be considered for an educational audit. The lowest fifty (50) schools will be determined by ranking of the percent of students scoring in Step 1 and Progressing levels as determined by applying the criteria [in subsection (2)(B)] above. No more than five (5) schools in one (1) school district shall be identified for an audit in any one (1) year; therefore, if five (5) schools are identified from one (1) district prior to identifying a total of fifty (50) schools, all other schools from that district will be removed from consideration and the next lowest schools from the remaining list will be identified until the total is fifty (50)]. Schools identified as academically deficient in a single district shall not exceed ten (10). At no time can there be more than a total of one hundred (100) schools either identified for an audit team visit or awaiting the second audit team visit;

[(D)] (C) Within sixty (60) days of the identification of a concerned school, the [State Board of Education] board shall appoint an audit team of at least ten (10) people as described in [section 160.538.2(4), RSMo] state law, and designate the chairperson of the committee for any school identified in the lowest fifty (50) as determined [by subsections (2)(A), (B) and (C)] above. A [Department of Elementary and Secondary Education] DESE state supervisor cannot be on a team relating to an academically deficient school in a school district which she/he supervises;

[(E)] (D) If, after considering relevant information and data provided by the school, the audit team finds that the school is an academically deficient school, the audit team shall determine the factors that contributed to the lack of student achievement which resulted in that finding using research based educational practices and the Missouri School Improvement Program (MSIP) Performance

Standards. The audit team shall report the factors and the findings to the *[State Board of Education]* board within one hundred twenty (120) days of its appointment. An audit team which finds a reasonable explanation for the low state assessment scores shall report such to the *[State Board of Education]* board;

[(F)] (E) The *[State Board of Education]* board shall declare any school which an audit team finds academically deficient to be academically deficient. The *[State Board of Education]* board shall, within sixty (60) days of its decision, appoint a management team of at least ten (10) people *[as described in section 160.538.2(4), RSMo]* pursuant to state law, for each school so designated. A management team may serve more than one (1) school. No person, except *[Department of Elementary and Secondary Education]* DESE personnel, can serve on a management team while serving on an audit team for the same school;

[(G)] (F) Within sixty (60) days of their appointment, the management team shall study the audit report and the factors that contribute to the deficiency and shall make recommendations that the team believes are appropriate and necessary in the management and administration of the school to promote increased student achievement.

1. In addition, [W]with consideration given to the financial condition of the district and the school, the team may make recommendations that local resources be more effectively utilized, additional local resources be given to the school, and/or that additional state resources be allocated to the school. The [items outlined in section 160.538.2(5), RSMo, and section 160.538.5, RSMo, shall be considered in the recommendations] report shall contain recommendations to be presented to the [state] board.

2. The [State Board of Education] board shall allocate from the “statewide areas of critical need” money to fund the operation of the management teams and to provide resources specified by the management teams needed in the academically deficient school and approved by the [State Board of Education] board pursuant to [section 160.530.2(1), RSMo] state law; and

[(H)] A school which has received the second visit of the audit team and remains an academically deficient school shall not be counted against the maximum number of schools referred to subsections (1)(C) through (G) or be placed in the listing of schools from lowest to highest pursuant to subsection (2)(C); and]

[(I)] (G) A school shall remain an academically deficient school until the second educational audit is conducted at least two (2) school years after the year of the filing of the management team’s report with the *[State Board of Education]* board and the audit determines the building to be no longer academically deficient and so recommends to the *[State Board of Education]* board.

1. If a school is found to be still academically deficient after the second educational audit/—]:

A. Then the local board may suspend, after due process, the indefinite contracts of “contributing teachers”;

B. The commissioner of education may, upon recommendations of the second audit team, conduct a recall election of board members;

C. The local board may not grant tenure to any probationary teacher until one (1) year after the academically deficient designation is lifted; and

D. The local board may not issue new contracts or renew contracts to either the superintendent or the principal for a period of longer than one (1) year *[(section 160.538.4, RSMo)]*.

2. The building will remain an academically deficient school until the *[State Board of Education]* board determines that performance on the MAP has improved sufficiently to warrant the change in status.

3. A school which has received the second visit of the audit team and remains an academically deficient school shall not be

counted against the maximum number of schools identified as either concerned or academically deficient schools.

(3) Determination of academically deficient schools by the local board of education:

(A) A local board may designate a school within its jurisdiction as an academically deficient school if that school is a concerned school and *[meets the criteria set out in subsection (2)(B)]* has **fifteen percent (15%) or more students in the Step 1 and Progressing levels using the MAP results;** and

(B) The local board may suspend or terminate contracts of contributing teachers, principals, and any administrators having responsibility for the school, *[subject to sections 168.114 to 168.120 RSMo or section 168.221, RSMo, whichever is applicable,]* pursuant to state law and reconstitute the school with new teachers and administrative staff.

AUTHORITY: sections 160.538, RSMo 2000 and 161.092, RSMo [2000] Supp. 2002. Previously filed as 5 CSR 30-340.010. Original rule filed Sept. 5, 1996, effective March 30, 1997. Rescinded and readopted: Filed March 22, 1999, effective Sept. 30, 1999. Amended and moved to 5 CSR 50-340.110: Filed Sept. 27, 2001, effective May 30, 2002. Amended: Filed April 23, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, Attn: Ginny Vandelicht, Assistant Director, School Improvement and Accreditation, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty days (30) after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 50—Division of School Improvement Chapter 340—School Improvement and Accreditation

PROPOSED AMENDMENT

5 CSR 50-340.200 Annual Public Reporting of Information by School Districts. The State Board of Education proposes to amend the Purpose, subsections (2)(B), (2)(C), (2)(J), (2)(N), (2)(O), (2)(R), (2)(S), (2)(W), sections (3), (4), (5), adding a new section (6) and deleting the Appendix that follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment is to combine and consolidate state and federal requirements for the annual public reporting of information by school districts and to make technical corrections.

PURPOSE: This rule [incorporates legislative changes] is to provide guidance on the annual public reporting of information by school districts [on an annual basis].

(2) Data to be reported shall include the following:

(B) Rates of pupil attendance. The average daily attendance of the regular school term divided by the *[average of the September and] January membership, or the total hours of student attendance divided by the sum of total hours of student attendance and total hours of absence;*

(C) High school dropout rate. The number of dropouts divided by the total of September enrollment plus transfers in, minus transfers out, minus dropouts, added to total September enrollment, then divided by two (2). Dropout rate **also** shall be reported for any racial/ethnicity group with more than thirty (30) students *[and which exceeds five percent (5%) of attendance center enrollment]*;

(J) Average per pupil expenditures for each attendance center in the district *[See Appendix A, included herein, for calculation model]* as determined by the calculation model available from the Department of Elementary and Secondary Education's (DESE) school finance section;

(N) Percent of the district's operating budget received from:

1. State. All state revenues received in the General, Special Revenue, and Capital Projects Funds divided by total revenues received in the General, Special Revenue, and Capital Projects Funds;

2. Federal. All federal revenues received in the General, Special Revenue, and Capital Projects Funds divided by total revenues received in the General, Special Revenue, and Capital Projects Funds; and

3. Local. All local and county revenues, **including "Proposition C" funds**, received in the General, Special Revenue, and Capital Projects Funds divided by total revenues received in the General, Special Revenue, and Capital Projects Funds;

(O) *[Number]* Percentage of students eligible for free *[and]* or reduced lunch. Full-time equivalency count of resident pupils eligible for free or reduced lunch as reported on Core Data;

(R) Rates of participation in:

1. Parent-teacher conferences. The number of students enrolled with one (1) or more of their parents or guardians attending a conference divided by the number of students enrolled the last Wednesday of September;

2. Special education programs. The number of students served in special education programs divided by the number of students enrolled the last Wednesday of September;

3. Early childhood special education programs. The number of students enrolled in the programs;

4. Parents as teachers programs. The number of families served;

5. Vocational education programs. The number of students enrolled in vocational education programs divided by the number of students enrolled the last Wednesday of September;

6. Gifted or enrichment programs. The number of students enrolled in gifted or enrichment programs divided by the number of students enrolled the last Wednesday of September; **and**

7. Advanced placement *[programs]* (AP) courses. The number of students enrolled in *[Advance Placement programs]* AP courses approved by The College Board divided by the number of students enrolled the last Wednesday of September; *[and]*

[8. College admissions testing. The number of high school graduates taking the American College Test (ACT) or Scholastic Aptitude Test (SAT) divided by the number of high school graduates;]

(S) *[Number]* Percentage of students continuing education in post-secondary programs. The percentage of previous year's graduates who are attending *[a two (2) or four (4)-year college]* a community college, a four (4)-year college/university or technical/vocational school as reported on Core Data;

(W) The certification status of teachers, *[(expressed as a percentage of total teachers) based upon the following categories]* including:

[1. Life, Professional (Professional Class I (PC I), Professional Class II (PC II) and Continuing Professional Certificate (CPC)), or Provisional certificates;

2. Temporary Authorization certificates or Special Assignment certificates; and

3. Substitute certificates or no certification.]

1. The percentage of teachers with temporary authorization or special assignment certificates;

2. The percentage of teachers with substitute certificates or no certification; and/or

3. The percentage of classes taught by highly qualified teachers.

(3) Achievement data including *[ACT, SAT, and Missouri Assessment Program (MAP) shall be reported using]*:

[(A) At least one (1) comparison of district average with state average or district average with districts having a similar characteristic or characteristics using the same variables for three (3) consecutive years; and/or

(B) No less than three (3)-year history of district scores. The district achievement history becomes comparison variable.]

(A) For each grade and subject included in the Missouri Assessment Program (MAP), report the number of students enrolled, the number of students tested and the number and percentage of students at or above the state's proficient level. Assessment data shall be reported in the aggregate and also shall be disaggregated for each of the following subgroups that has thirty (30) or more students: Asian, African-American, Hispanic, Indian, Pacific Islander, white, eligible for free- or reduced-price lunch, student with Individualized Education Program (IEP), or limited English proficiency. Data shall be provided for at least the most recent three (3) years; and

(B) For high schools, report at least the most recent three (3) years of aggregated American College Test (ACT) or Scholastic Aptitude Test (SAT) scores, as appropriate, the percentage of graduates taking the tests, and comparisons to state averages for the same years.

(4) *[Reporting]* The requirements of this regulation apply to each attendance center within a public school district. Reports issued by school districts shall permit disclosure of data on a school-by-school basis, but shall not be personally identifiable by any student or employee. *[Disaggregated achievement data shall be reported for any racial/ethnicity group with more than thirty (30) students and which exceeds five percent (5%) of attendance center enrollment.]* Data about students attending alternative programs within the school district shall be included with the information for the attendance center to which such students would otherwise be assigned.

(5) *[The regulation shall apply to charter schools and to each attendance center in a public school district. Attendance center reports shall include students attending alternative programs within the district.]* In their annual reports, school districts shall identify all attendance centers that have been designated for improvement as a result of failing to make adequate yearly progress (AYP), as defined by DESE.

(6) Annual reports issued by charter schools shall comply with the requirements of this regulation.

AUTHORITY: sections 160.522, RSMo Supp. 2001 and 161.092, RSMo [2000] Supp. 2002. Original rule filed Oct. 25, 2001, effective May 30, 2002. Amended: Filed April 23, 2003.

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

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

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

Missouri Department of Elementary and Secondary Education, Attn: Dr. Bert Schulte, Assistant Commissioner, Division of School Improvement, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of Instruction
Chapter 350—State Programs**

PROPOSED RESCISSION

5 CSR 50-350.015 General Provisions Governing the Improving America's Schools Act, The Technology Literacy Challenge Fund. This rule gave the Department of Elementary and Secondary Education (DESE) authority to receive and expend federal funds and set forth the general provisions governing projects operated by local educational agencies (LEAs) under Subpart 2 of Part A of Title III of the Improving America's Schools Act (IASA). The rule incorporated by reference the regulations for the program as published in the state *Technology Literacy Challenge Fund Program Guidelines*.

PURPOSE: This rule is rescinded because the five (5) years of the cycle have passed. It was established as a five (5)-year program and was only funded in Fiscal Years 1997 through 2001.

AUTHORITY: sections 178.430 and 178.440, RSMo 1994. Original rule filed June 30, 1997, effective Jan. 30, 1998. Rescinded: Filed April 23, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, Attn: Susan Cole, Coordinator of State Programs, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of Instruction
Chapter 360—Pupil/Teacher Ratio Reduction Incentive
Program**

PROPOSED RESCISSION

5 CSR 50-360.010 General Provisions. This rule established guidelines and procedures for the orderly administration of the Pupil/Teacher Ratio Reduction Incentive Program authorized by the Outstanding Schools Act.

PURPOSE: This rule is being rescinded because the program's three (3) year project period has passed. The program operated from 1994 through 1997.

AUTHORITY: section 160.550, RSMo Supp. 1993. Original rule filed Nov. 2, 1993, effective June 6, 1994. Rescinded: Filed April 23, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, Attn: Susan Cole, Coordinator of State Programs, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of Instruction
Chapter 370—New Schools Pilot Project**

PROPOSED RESCISSION

5 CSR 50-370.010 General Provisions. This rule established guidelines and procedures for implementing the Outstanding Schools Act pertaining to The New Schools Pilot Project.

PURPOSE: This rule is rescinded because the program's five (5) year project period has passed. The New Schools Pilot Project operated during 1994 through 1999.

AUTHORITY: section 162.1010, RSMo Supp. 1993. Original rule filed Nov. 2, 1993, effective June 6, 1994. Rescinded: Filed April 23, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, Attn: Susan Cole, Coordinator of State Programs, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 70—Special Education
Chapter 742—Special Education**

PROPOSED RESCISSION

5 CSR 70-742.160 Policy for Reimbursement of Individuals Serving as Members of Hearing Panels. This rule set forth the policy for reimbursement of individuals serving as panel members during due process proceedings conducted by school districts or the Department of Elementary and Secondary Education.

PURPOSE: This rule is being rescinded as school districts are no longer authorized to conduct due process hearings, and Department of Elementary and Secondary Education due process hearings, and payment of hearing panel members, are now provided for specifically in section 162.961, RSMo.

AUTHORITY: section 162.685, RSMo 1986. Original rule filed Oct. 19, 1979, effective Feb. 14, 1980. Amended: Filed April 23, 1985, effective Sept. 3, 1985. Rescinded: Filed April 23, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, Attn: Melodie A. Friedebach, Assistant Commissioner, Division of Special Education, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and
Training Program
Chapter 13—Peace Officer Licenses**

PROPOSED AMENDMENT

11 CSR 75-13.010 Classification of Peace Officer Licenses. The department is adding subsection (1)(E), and relettering subsections (E)–(H).

PURPOSE: This amendment identifies the classifications of licenses for peace officers that attend the Missouri Police Corps.

(1) Every peace officer license shall be classified according to the type of commission for which it is valid:

[(E)] (E) Class A-PC. Valid for any commission, except commission with the Missouri State Highway Patrol, the Missouri State Water Patrol, and the Missouri Conservation Commission. Must be a graduate of the Missouri Police Corps.

[(E)] (F) Class B. Valid for any commission, except commission by a first class county with a charter form of government, a political subdivision located within a first class county with a charter form of government, a city not within a county, the Missouri State Highway Patrol, the Missouri State Water Patrol, or the Missouri Conservation Commission.

[(F)] (G) Class C. Valid only for commission within a third class county pursuant to section 590.040.1(4), RSMo and only for the particular commission held by the licensee on July 1, 2002, or a commission that the director has determined to be similar pursuant to section 590.040.2, RSMo.

[(G)] (H) Class R.

1. Valid only for commission as a reserve peace officer with police powers limited by the commissioning authority as follows: while on duty the officer shall be under the direct supervision of a commissioned officer who holds a valid class A, B, or C license; while off duty the officer shall have no police power and shall not carry a concealed weapon; and the officer shall have no police power outside the commissioning political subdivision.

2. As used in this rule, “direct supervision” means supervision in which the supervising officer: monitors the supervised officer, including by two-way radio or radio scanner; is available for voice communication with the supervised officer; and is able to respond and assist the supervised officer in a timely manner.

3. A class R license shall not be valid for any commission by a first class county with a charter form of government, a political subdivision located within a first class county with a charter form of government, a city not within a county, the Missouri State Highway

Patrol, the Missouri State Water Patrol, or the Missouri Conservation Commission.

[(H)] (I) Class S. Valid only pursuant to section 590.030.6, RSMo for the continuing licensure of a person holding and exercising a law enforcement commission requiring a peace officer license.

AUTHORITY: sections 590.020.2, 590.030.6, and 590.040.2, RSMo Supp. 2001. Original rule filed May 1, 2002, effective Oct. 30, 2002. Amended: Filed April 25, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Jeremy Spratt, POST Program, Missouri Department of Public Safety, PO Box 749, 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and
Training Program
Chapter 14—Basic Training Centers**

PROPOSED AMENDMENT

11 CSR 75-14.030 Standard Basic Training Curricula and Objectives. The department is adding subsection (1)(E), and relettering subsections (E)–(H) and updating the incorporated by reference materials.

PURPOSE: This amendment identifies the classification of licenses for peace officers that attend the Missouri Police Corps.

(1) The Peace Officer Standards and Training (POST) Commission shall develop a mandatory basic training curriculum for each class of peace officer license. The minimum number of training hours for each class of peace officer license shall be as follows:

[(E)] (E) Class A-PC. One thousand (1,000) hours;

[(E)] (F) Class B. Four hundred seventy (470) hours;

[(F)] (G) Class C. One hundred twenty (120) hours;

[(G)] (H) Class R. Two hundred eighty-one (281) hours;

[(H)] (I) Class S. Four hundred seventy (470) hours.

AUTHORITY: section 590.030.1, RSMo Supp. 2001. Original rule filed May 1, 2002, effective Oct. 30, 2002. Amended: Filed April 25, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Jeremy Spratt, POST Program, Missouri Department of Public Safety, PO Box 749, 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and
Training Program
Chapter 14—Basic Training Centers

PROPOSED AMENDMENT

11 CSR 75-14.080 Minimum Requirements for a Basic Training Instructor. The department is amending paragraph (3)(D)4.

PURPOSE: This amendment will allow only a graduate of a Certified First Responder Trainer course to teach the curricula course, First Aid (First Responder).

(3) To qualify for a specialist license, an instructor shall possess the following qualifications:

(D) A valid, current third-party or secondary license shall be required to qualify as a specialist instructor for any objective related to the following:

1. Tactical Communications if utilizing Verbal Judo, graduate of a Verbal Judo Trainer Course.
2. Hazardous Materials, graduate of a POST recognized Hazardous Materials Training Course.
3. Accident Investigation, graduate of a Basic Accident Investigation School or Accident Reconstruction School.
4. First Aid (First Responder), **graduate of a Certified First Responder Trainer Course**, or a licensed Emergency Medical Technician (EMT), Emergency Medical Technician Paramedic (EMTP), Registered Nurse (RN), Medical Doctor (MD), or Doctor of Osteopathy (DO).
5. The core curricula areas under Defensive Tactics, graduate of a POST recognized Law Enforcement Defensive Tactics Instructor Course.
6. The core curricula areas under Firearms, graduate of a POST recognized Firearms Instructor School of at least forty (40) hours.
7. The core curricula areas under Driver Training, graduate of a POST recognized Drivers Training Instructor Course.
8. Memoranda, Introduction to Report Writing, and Report Writing Exercises, if an individual does not have at least a four (4) year college degree, they must be a graduate of a POST recognized Report Writing Instructor Course.

AUTHORITY: section 590.060.1, RSMo Supp. 2001. Original rule filed May 1, 2002, effective Oct. 30, 2002. Amended: Filed Oct. 31, 2002, effective April 30, 2003. Amended: Filed April 25, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Jeremy Spratt, POST Program, Missouri Department of Public Safety, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation, Rights
and Responsibilities

PROPOSED AMENDMENT

13 CSR 70-4.040 Eligibility Corrective Action Recipient Payments. The division is amending subsection (1)(D).

PURPOSE: This amendment clarifies the basis on which recipients who have a spenddown obligation may be reimbursed by the Medicaid program for Title XIX services paid by them to providers between the date of the initial agency decision denying their eligibility and the date of the agency or court decision establishing their eligibility for Medicaid. This proposed amendment complies with current federal and state legal requirements regarding spenddown obligation.

(1) All recipients whose eligibility for Medicaid benefits is denied and whose eligibility is subsequently established as a result of an agency hearing decision, a court decision based on an agency hearing decision or any other final agency decision rendered on or after January 1, 1986 may be reimbursed by the Medicaid agency for Medicaid services paid by the recipients to providers between the date of the agency decision denying their eligibility and the date of the agency or court decision establishing their eligibility for Medicaid benefits.

(D) Any medical expenses paid by the recipient which are for the purpose of meeting that recipient's spenddown obligation are not payable [except for those services deemed to have been provided on the first date of spenddown eligibility].

AUTHORITY: sections [207.020, RSMo 1986, 208.152, RSMo Supp. 1990 and] 208.153 and 208.201, RSMo [Supp. 1991] 2000. This rule was previously filed as 13 CSR 40-81.141. Original rule filed April 16, 1985, effective Jan. 1, 1986. Amended: Filed Jan. 22, 1992, effective Sept. 6, 1992. Amended: Filed May 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is changing section (10) and adding section (11).

PURPOSE: The proposed amendment changes section (10) and adds section (11). This amendment will establish the Federal Reimbursement Allowance (FRA) assessment for SFY 2003 at five and seventy hundredths percent (5.70%) and SFY 2004 at five and sixty-four hundredths percent (5.64%).

(10) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2003. The FRA assessment for State Fiscal Year (SFY) 2003 shall be determined at the rate of [five and fifty-two] **five and seventy** hundredths percent [(5.52%)] **(5.70%)** of the hospital's total

operating revenue less tax revenue/other government appropriations plus non-operating gains and losses as published by the Missouri Department of Health, State Center for Health Statistics in the *Missouri Hospital Revenues 1995-2000* manual, which is incorporated by reference in this rule. The base financial data for 1999 will be annualized, if necessary, and will be adjusted by the trend factor listed in 13 CSR 70-15.010(3)(B) to determine revenues for the current state fiscal year. The financial data that is submitted by the hospitals to the Missouri Department of Health and Senior Services is required as part of 19 CSR 10-33.030, Reporting Financial Data by Hospitals. If the pertinent information is not available through the Department of Health and Senior Services' hospital database, the Division of Medical Services will use the Medicaid data similarly defined from the Medicaid cost report that is required to be submitted pursuant to 13 CSR 70-15.010(5)(A).

(11) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2004. The FRA assessment for State Fiscal Year (SFY) 2004 shall be determined at the rate of five and sixty-four hundredths percent (5.64%) of the hospital's total operating revenue less tax revenue/other government appropriations plus non-operating gains and losses as published by the Missouri Department of Health, State Center for Health Statistics in the *Missouri Hospital Revenues 1995-2000* manual, which is incorporated by reference in this rule. The base financial data for 2000 will be annualized, if necessary, and will be adjusted by the trend factor listed in 13 CSR 70-15.010(3)(B) to determine revenues for the current state fiscal year. The financial data that is submitted by the hospitals to the Missouri Department of Health and Senior Services is required as part of 19 CSR 10-33.030, Reporting Financial Data by Hospitals. If the pertinent information is not available through the Department of Health and Senior Services' hospital database, the Division of Medical Services will use the Medicaid data similarly defined from the Medicaid cost report that is required to be submitted pursuant to 13 CSR 70-15.010(5)(A).

AUTHORITY: sections 208.201, 208.453 and 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed April 29, 2003, effective May 9, 2003, expires Feb. 19, 2004. Amended: Filed April 29, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate in SFY 2003 or SFY 2004.

PRIVATE COST: This proposed amendment is expected to cost private entities an additional \$18,406,012 for a total of \$559,110,034 in SFY 2003 and a total of \$588,038,698 in SFY 2004.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

FISCAL NOTE**PRIVATE COST****I. RULE NUMBER**

Rule Number and Name:	13 CSR 70-15.110 Federal Reimbursement Allowance (FRA)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
132	Hospitals	SFY 2003 - \$18,406,012
131	Hospitals	SFY 2004 - \$588,038,698

III. WORKSHEET

The fiscal note is based on establishing the SFY 2003 FRA assessment percentage at 5.70% and the SFY 2004 FRA assessment percentage at 5.64%.

IV. ASSUMPTIONS

The SFY 2003 FRA assessment is based on total operating revenue less tax revenue/other government appropriations plus non-operating gains and losses of approximately \$9.7 billion multiplied by 5.70%. The \$18,406,012 cost is the difference between the original SFY 2003 estimate of \$540,704,022 and the new SFY 2003 estimated cost of \$559,110,034. The 132 hospitals reported above include 43 hospitals that are owned or controlled by state, county, city or hospital districts. The impact on these hospitals is \$302,592 (\$76,727,806 new estimate less \$76,425,214 original estimate).

The SFY 2004 FRA assessment is based on total operating revenue less tax revenue/other government appropriations plus non-operating gains and losses of approximately \$10.4 billion multiplied by 5.64%. The 131 hospitals reported above include 39 hospitals that are owned or controlled by state, county, city or hospital districts. The impact on these hospitals is \$79,180,433.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.035 Payment of Benefits. The board is replacing section (5).

PURPOSE: This rule clarifies the distribution requirements under the plan by amending section (5).

[(5) 401(a)(9) Requirements. Regardless of any contrary provision in the plan, any distribution shall be determined in accordance with Internal Revenue Code (Code) section 401(a)(9) and the proposed regulations thereunder, including the "minimum distribution incidental benefit requirement" of Prop. Reg. section 1.401(a)(9)-2 (62 Fed. Reg. 67, 780 (Dec. 30, 1997)). Accordingly, distribution of a Participant's accrued benefit shall begin no later than his or her required beginning date.]

(5) 401(a)(9) Requirements. All distributions required under the County Employees' Retirement Fund shall be determined and made in accordance with the Prop. Reg. under Code section 401(a)(9), including the minimum distribution incidental benefit requirement of Prop. Reg. section 1.401(a)(9)-2. The entire interest of a participant must be distributed or begin to be distributed no later than the participant's required beginning date as defined in section 50.1000(12), RSMo. Except as amended by the foregoing, the terms and provisions of the County Employees' Retirement Fund as enacted by the General Assembly of the State of Missouri effective as of August 28, 1994 and amended effective as of January 1, 2000 shall remain in full force and effect.

AUTHORITY: section 50.1032, RSMo [Supp. 1999] 2000. Original rule filed July 29, 1997, effective Jan. 30, 1998. Rescinded and readopted: Filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed April 23, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, PO Box 2271, 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 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.090 Normal Retirement Benefit. The board is replacing section (6).

PURPOSE: This rule clarifies the maximum annuities permitted under the plan by amending section (6).

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

[(6) Maximum Benefit. No benefit payable from the plan shall exceed the maximum benefit permitted under section 415(b) of the Internal Revenue Code (Code). If a participant's membership in another retirement plan results in the violation of the limits of Code section 415, the participant's benefit in this plan shall be reduced in order to ensure compliance with such Code section.]

(6) Maximum Benefit. Anything to the contrary notwithstanding, an annuity computed under the plan shall not exceed the limitations imposed by Code section 415, and no participant shall accrue a benefit in excess of the limitations imposed by Code section 415(b). For purposes of applying such limitations, compensation shall be defined as compensation within the meaning of Code section 415(c)(3)(A). All other terms and provisions of Code section 415 are incorporated herein by reference.

AUTHORITY: section 50.1032, RSMo [Supp. 1999] 2000. Original rule filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed April 23, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, PO Box 2271, 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.