

[Table 1—Maximum Eligible Amount for Facilities
Planning and Design

Table 2—Maximum Eligible Amount—Design Only

<u>Construction Cost</u>	<u>Allowance as a Percentage of Construction Cost*</u>	<u>Construction Cost</u>	<u>Allowance as a Percentage of Construction Cost*</u>
\$ 100,000 or less	14.49	\$ 100,000 or less	8.57
120,000	14.11	120,000	8.38
150,000	13.66	150,000	8.16
175,000	13.36	175,000	8.01
200,000	13.10	200,000	7.88
250,000	12.68	250,000	7.67
300,000	12.35	300,000	7.50
350,000	12.08	350,000	7.36
400,000	11.84	400,000	7.24
500,000	11.46	500,000	7.05
600,000	11.16	600,000	6.89
700,000	10.92	700,000	6.77
800,000	10.71	800,000	6.66
900,000	10.52	900,000	6.56
1,000,000	10.36	1,000,000	6.43
1,200,000	10.09	1,200,000	6.34
1,500,000	9.77	1,500,000	6.17
1,750,000	9.55	1,750,000	6.05
2,000,000	9.37	2,000,000	5.96
2,500,000	9.07	2,500,000	5.80
3,000,000	8.83	3,000,000	5.67
3,500,000	8.63	3,500,000	5.57
4,000,000	8.47	4,000,000	5.48
5,000,000	8.20	5,000,000	5.33
6,000,000	7.98	6,000,000	5.21
7,000,000	7.81	7,000,000	5.12
8,000,000	7.66	8,000,000	5.04
9,000,000	7.52	9,000,000	4.96
10,000,000	7.41	10,000,000	4.90
12,000,000	7.22	12,000,000	4.79
15,000,000	6.99	15,000,000	4.67
17,500,000	6.83	17,500,000	4.58
20,000,000	6.70	20,000,000	4.51
25,000,000	6.48	25,000,000	4.39
30,000,000	6.31	30,000,000	4.29
35,000,000	6.17	35,000,000	4.21
40,000,000	6.06	40,000,000	4.14
50,000,000	5.86	50,000,000	4.03
60,000,000	5.71	60,000,000	3.94
70,000,000	5.58	70,000,000	3.87
80,000,000	5.47	80,000,000	3.81
90,000,000	5.38	90,000,000	3.75
100,000,000	5.30	100,000,000	3.71
120,000,000	5.16	120,000,000	3.63
150,000,000	4.99	150,000,000	3.53
175,000,000	4.88	175,000,000	3.46
200,000,000	4.79	200,000,000	3.41

*Interpolate between values.

Note: These tables shall not be used to determine the compensation for facilities planning or design services. The compensation for facilities planning for design services should be based upon the nature, scope and complexity of the services required by the community.]

(4) Leveraged Loans.

(C) Target Interest Rate. The target interest rate (TIR) [for all assistance provided under this rule shall not be less than thirty percent (30%) of the net interest cost of the EIERA bonds or notes issued for this purpose. The TIR] shall be established by the department in consultation with the EIERA based upon current economic factors, projected fund utilization, deposits in the subfund, and actual or anticipated federal capitalization grants. The department [shall not undertake project-by-project revisions] will use the Twenty-Five Bond Revenue Index as published in *The Bond Buyer* (or any successor publication) as the basis for determining the TIR. The department reserves the right to refinance, assign, pledge, or leverage any loans originated under this subsection.

1. The TIR for all assistance provided under the leveraged loan program shall not be less than thirty percent (30%) of the weekly Twenty-Five Bond Revenue Index as published in *The Bond Buyer* (or any successor publication) the week preceding funding, rounded up to the nearest one one hundredth (0.01) of one percent (1%). The Safe Drinking Water Commission (SDWC) shall not undertake project-by-project revisions.

2. The TIR for all assistance provided under section (5), DWRP Direct Loans, shall not be less than thirty percent (30%) of the weekly Twenty-Five Bond Revenue Index as published in *The Bond Buyer* (or any successor publication) the week preceding funding, rounded up to the nearest one one hundredth (0.01) of one percent (1%). The commission may reduce the interest rate to meet the needs of the applicant. In order to reduce the interest rate, the commission must determine that unique or unusual circumstances exist. In addition, the commission may reduce the interest rate for projects impacting enterprise zones as authorized under state law.

3. A disadvantaged community may receive a further reduction in the TIR as determined by the SDWC. A disadvantaged community is defined, for the purpose of reducing the TIR, as an applicant that:

A. Has a population of three thousand three hundred (3,300) or less based on the most recent decennial census;

B. Has a median household income at or below seventy-five percent (75%) of the state average median household income as determined by the most recent decennial census; and

C. Has an average water user charge for five thousand (5,000) gallons that is at least two percent (2%) of the median household income of the applicant.

4. For projects funded by the ARRA, the Safe Drinking Water Act as amended, or any subsequent federal act, additional subsidization (such as principal forgiveness, negative interest loans, grants, or the like) may be provided as federal law requires or allows.

(F) Construction Loan Fund. Net proceeds from the sale of any project bonds or notes issued by the EIERA for eligible project costs shall be used to fund construction of the project. These proceeds shall be deposited with a construction loan trustee and disbursed as construction progresses pursuant to subsection [(4)(H)] (4)(I) of this rule.

(G) Alternative Leveraged Loan Structure. If financial market conditions dictate, an alternative leveraging structure may be implemented. Alternative leveraging structures will be developed by the department in consultation with the commission and the EIERA. The alternative structure, so developed, will be included in the annual intended use plan.

[(G)](H) Loan Agreements. In addition to the other requirements of this rule, the department and the EIERA may require the recipient to include assurances and certifications in the loan agreements and bond resolutions deemed necessary to protect the interest of the state and the EIERA and to comply with federal requirements.

[(H)](I) Disbursement from Loan Proceeds. The recipient shall request payments from the construction loan fund, which shall

include the information listed in this subsection [(4)(H)] (4)(I) and other information deemed necessary and approved by the EIERA to ensure proper project management and expenditure of public funds.

1. Completed reimbursement request form.

2. Construction pay estimates signed by the construction contractor, the recipient, and the resident inspector, if applicable.

3. Invoices for other eligible services, equipment, and supplies for the project.

4. Any other documentation required under the provisions of the trust indenture.

[(I)](J) Amortization Schedules. The EIERA shall establish amortization schedules for long-term loans awarded under this rule. Repayment of principal shall begin not later than one (1) year after initiation of operation. The loans shall be fully repaid in no more than twenty (20) years after initiation of operation.

[(J)](K) Loan Repayment.

1. Repayment of principal and penalties to the DWRP loan program will be made by the release of money from the debt service reserve fund. If funds for these payments are not available in the debt service reserve, then the payment shall be made from other funds of the recipient.

2. Repayment of principal and interest on the EIERA bonds or notes will be paid from revenues of the user charge system or from another dedicated source of revenue as may be designated in the applicable bond resolutions or loan agreements.

(5) DWRP Direct Loans.

(A) General.

1. This section describes the process and requirements for direct loans awarded under this rule. All other requirements also apply, including administrative fees in subsection (2)(B) of this rule, except for subsection (2)(A) and section (4) of this rule which pertain to leveraged loans.

2. This rule sets out the general format for the direct loan program. The commission and the department shall have the authority to make specific refinements, variations, or additional requirements as may be necessary or desirable in connection with the efficient operation of the direct loan program.

3. The department may make direct loans by purchasing the general obligation bonds, revenue bonds, short-term notes, or other acceptable obligation of any qualified applicant for the planning, design, and/or construction of an eligible project. These loans shall not exceed the total eligible project costs described in subsection [(2)(S)] (2)(R) of this rule less any amounts finalized by any means other than through the direct loan program. The department is not required to offer direct loans to drinking water revolving fund loan program applicants.

[(B) Interest Rate.

1. The target interest rate (TIR) for all direct loan assistance provided under this rule will be not less than zero percent (0%) nor more than market rate as determined by the Twenty-Five Revenue Bond Index published by the *Bond Buyers Index of Twenty Bonds* rounded to the nearest one-tenth (0.1) of one percent (1%). The department will use the Twenty-Five Revenue Bond Index most recently published prior to the date on which the project assistance is provided for all loans except those secured by general obligation bonds. For these transactions, the rate published immediately preceding filing with the state auditor's office will be used.

2. Interest on the unpaid balance will begin accruing on the last day of the month in which a construction advance is made and will be compounded at the end of each month after that until such time as the construction loan along with all interest accrued is paid in full.]

[(C)](B) Letter of Intent. The department will issue a letter of intent to make a direct loan when the application documents are approved and the commission approves the project for receipt of loan

funds. The letter of intent shall state the amount of funds reserved for the project, the requirements to qualify for receipt of loan funds, and the schedule for the applicant to meet all requirements. The department may terminate this letter of intent for failure to meet the schedule requirements or conditions of the letter of intent. The amount of assistance stated in the letter of intent may be adjusted to reflect actual costs and the availability of funds.

[(D)](C) Construction Loans. The department may award construction loans to qualified applicants in order to provide interim financing during construction of their project. Construction loans may contain clauses and provisions determined by the department to be necessary to protect the interests of the state.

1. With exception of substate revolving funds, the construction loan will remain in force throughout the construction period. However, it must be paid in full no later than the closing deadline provided in the construction loan agreement.

2. If the department is to provide long-term financing under this rule, then the construction loan must contain an agreement by the department and the recipient that the department will purchase the recipient's general obligation bonds, revenue bonds, or other acceptable debt obligation after construction is completed. If a construction loan is awarded, the permanent financing amount will be limited in amount to the sum of the payments drawn from the construction loan for eligible project costs plus interest accrued on the construction loan plus the reasonable costs of issuance which can be financed under Missouri statutes.

3. Unless specifically addressed in the loan documents, the recipient may request construction loan payments no more often than monthly. The maximum construction advance shall be the sum of all eligible costs incurred to date. Each payment request shall include the following information:

- A. Completed reimbursement request form;
- B. Construction pay estimates signed by the construction contractor, the recipient, and the resident inspector, if applicable;
- C. Invoices for other eligible services, equipment, and supplies for the project; and
- D. Any other information deemed necessary by the department to *[insure]* ensure proper project management and expenditure of public funds.

4. If the department is satisfied that the payment request accurately reflects the eligible cost incurred to date on the project, the department will request that a state payment check be issued to the recipient.

[(E)](D) The department may require the recipient to contract with a trustee or paying agent to provide all or part of the following services:

1. Make joint assistance payments to the recipients and their contractors;
2. Ensure that payments are only released to those recipient's whose contractors have a project contract approved by the department;
3. Ensure that none of the recipient's contractors receive more in assistance payments than approved by the department; and
4. Maintain financial records of credits and debits for the construction project.

[(F)](E) Purchase of Obligations. The department shall purchase revenue bonds, general obligation bonds, or other acceptable debt obligations from the recipient no later than the closing deadline contained in the construction loan agreement. In addition to the requirements of this rule, the department may require the recipient to include those assurances and clauses in the loan agreements and bond resolutions as deemed necessary to protect the interest of the state.

[(G)](F) Amortization Schedules. The department shall use the following guidelines to establish amortization schedules for obligations purchased under this rule:

1. The bonds, notes, or other debt obligations shall be fully amortized in no more than twenty (20) years after initiation of operation;

2. The payment frequency on any debt obligations shall be no less than annual with the first payment no later than one (1) year after the initiation of operation;

3. The amortization schedule may either be straight line or declining schedules for the term of the debt obligation; and

4. Repayment of principal shall begin not later than one (1) year after initiation of operation.

[(H)](G) If at any time during the loan period the facility(ies) financed under this rule is sold, either outright or on contract for deed, the loan becomes due and payable upon transfer unless otherwise approved by the department.

(6) Additional Subsidization. Recipients of financial assistance provided from the ARRA shall meet the applicable federal law, regulation, and guidance applicable to those funds. Additional subsidization may be in the form of forgiveness of principal, negative interest loans, or grants, or any combination of these. The TIR for ARRA-funded projects will initially be calculated as directed in subsection (4)(C) above.

AUTHORITY: section[s] 640.100, RSMo Supp. 2008 and section 640.107, RSMo [Supp.] 2000. Emergency rule filed July 15, 1998, effective July 25, 1998, expired Feb. 25, 1999. Original rule filed Aug. 17, 1998, effective April 30, 1999. Amended: Filed Jan. 19, 2001, effective Sept. 30, 2001. Emergency amendment filed May 20, 2009, effective May 30, 2009, expires Feb. 25, 2010. Amended: Filed June 24, 2009.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, Water Protection Program, Douglas A. Garrett, PO Box 176, Jefferson City, MO 65102. Comments may be sent through email to doug.garrett@dnr.mo.gov. Public comments must be received by September 2, 2009. A public hearing is scheduled at a meeting of the Safe Drinking Water Commission to be held at 10:00 a.m., September 2, 2009 at the Missouri Department of Natural Resources' East Elm Street location, 1738 East Elm, Jefferson City, MO 65101.*

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 40—Division of Fire Safety Chapter 2—Boiler and Pressure Vessel Safety Rules

PROPOSED AMENDMENT

11 CSR 40-2.010 Definitions. The Board of Boiler and Pressure Vessel Rules is amending sections (11), (34), (44), and (45); adding new sections (14), (26), (27), and (37); and renumbering sections (14)–(46).

PURPOSE: This amendment provides new definitions for emergency installation, labeled, listed, and pool heater, and modifies definitions for CSD-1, fired jacketed steam kettles, and waste heat boiler to help clarify rules and be consistent with the Codes and Standards adopted by the board. All other changes are editorial in nature.

(11) CSD-1—*[Code]* Standard for Control and Safety Devices for Automatically Fired Boilers published by the American Society for Mechanical Engineers (ASME).

(14) Emergency installation—The unplanned replacement of a boiler, water heater, pool heater, or pressure vessel due to failure.

/(14)/(15) Existing installation—Includes any boiler, water heater, or pressure vessel constructed, installed, placed in operation, or under contract[,/] on or before November 12, 1986.

/(15)/(16) Fittings and appliances—Include but not limited to pressure relief devices, low water protection, pressure controls, temperature controls, thermometers, gages, expansion tanks, pipe, pipe fittings, pipe valves, etc., within the scope of the Act and these rules.

/(16)/(17) Hobby boiler—A boiler operated as a personal hobby and not used for commercial gain.

/(17)/(18) Hot water heating boiler—A boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding one hundred sixty (160) pounds per square inch (psi) and/or a temperature of two hundred fifty degrees Fahrenheit (250 °F) at or near the boiler outlet.

/(18)/(19) Hot water supply boiler—A boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding one hundred sixty (160) psi or at temperatures not exceeding two hundred fifty degrees Fahrenheit (250 °F) at or near the boiler outlet.

/(19)/(20) Inspection [C]certificate—A certificate issued by the chief inspector for the operation of a boiler, water heater, or pressure vessel as required by the Act and these rules.

/(20)/(21) Inspector—The chief inspector, deputy inspector, special inspector, or owner-user inspector authorized to perform certificate inspections in Missouri.

/(21)/(22) Installation site—The physical location where one (1) or more boilers, water heaters, pressure vessels, or a combination thereof are located. Examples of installation sites include but are not limited to a single boiler room in a building, a single process building, a single laboratory building, or a central utility building.

/(22)/(23) Installer—The organization responsible for the installation of a boiler, water heater, or pressure vessel, including any associated control systems and protective equipment.

/(23)/(24) *International Mechanical Code*—International Code Council, Inc.

/(24)/(25) **Fired [J]jacketed steam kettle**—A gas fired or electrically heated kettle with jacket(s), operating at pressure not exceeding fifty (50) psi.

(26) Labeled—Equipment or materials to which the label of a nationally recognized testing agency, such as Underwriters Laboratory (UL) or Factory Mutual (FM), has been applied. Application of the label indicates compliance with the agency's standards.

(27) Listed—Equipment or materials which are included on a list published by a nationally recognized testing agency, such as Underwriters Laboratory (UL) or Factory Mutual (FM). Listing indicates compliance with nationally recognized standards.

/(25)/(28) MAWP—Maximum allowable working pressure.

/(26)/(29) National Board (NB)—The National Board of Boiler and Pressure Vessel Inspectors.

/(27)/(30) National Board Commission—The commission issued to an inspector by the National Board of Boiler and Pressure Vessel Inspectors.

/(28)/(31) National Board Inspection Code (NBIC)—The edition and addenda of ANSI/NB-23 currently adopted by the board.

/(29)/(32) New installation—Includes all boilers, water heaters, or pressure vessels constructed, installed, placed in operation, or under contract[,/] on or after November 12, 1986.

/(30)/(33) Nonstandard boiler, water heater, or pressure vessel—A boiler, water heater, or pressure vessel that does not bear the ASME stamp.

/(31)/(34) Object—A boiler, water heater, or pressure vessel.

/(32)/(35) Owner or user—Any person, firm, or corporation legally responsible for the safe installation, operation, and maintenance of any boiler, water heater, or pressure vessel within the state of Missouri.

/(33)/(36) Plans—Drawings, specifications, schematics, etc., acceptable to the chief inspector and suitable for determining if the installation meets the requirements of the statute and these rules.

(37) Pool heater—An appliance designed for heating non-potable water stored at atmospheric pressure, such as water in swimming pools, spas, hot tubs, and similar applications.

/(34)/(38) Power boiler—A boiler in which steam or other vapor is generated at a pressure of more than fifteen (15) psi **for use external to itself** or a water (or other liquid) boiler intended for operation at pressures in excess of one hundred sixty (160) psi and/or temperatures in excess of two hundred fifty degrees Fahrenheit (250 °F).

/(35)/(39) Pressure vessel—A vessel in which the pressure is obtained from an external source or by the application of heat from an indirect source, other than those vessels defined as boilers.

/(36)/(40) Reinstalled boiler, water heater, or pressure vessel—A boiler, water heater, or pressure vessel removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

/(37)/(41) Repair—The process of restoring a component or system to a safe and satisfactory condition such that the existing design conditions are met.

/(38)/(42) Replacement—The removal of an existing boiler, water heater, or pressure vessel and installation of a new second-hand or re-installed boiler, water heater, or pressure vessel.

/(39)/(43) Second-hand boiler, water heater, or pressure vessel—A boiler, water heater, or pressure vessel which has changed both location and ownership.

/(40)/(44) Special inspector—Any inspector commissioned by the chief inspector who is employed by an insurance company authorized to provide boiler and pressure vessel insurance in this state or an inspector who is employed by a company that maintains an inspection department whose organization and inspection procedures meet the requirements of the National Board for an Owner-User Inspection Agency and are acceptable to the chief inspector.

/(41)/(45) Standard boiler, water heater, or pressure vessel—A boiler, water heater, or pressure vessel that bears the ASME stamp.

[(42)](46) State special—A boiler, water heater, or pressure vessel of special construction, or which is designed or constructed to other than the ASME Code and is not inconsistent with the spirit and safety objectives of the ASME Code.

[(43)](47) Steam heating boiler—A steam or vapor boiler operating at pressures not exceeding fifteen (15) psi.

[(44)](48) Waste heat boiler—[An unfired pressure vessel intended for operation in excess of fifteen (15) psi steam for the purpose of producing and controlling an output of thermal energy.] A boiler that has, as its principal source of thermal energy, a hot gas stream from the exhaust of a gas turbine or internal combustion engine.

[(45)](49) Water heater—A fired, pressurized vessel in which water is heated by electricity, or by the combustion of solid, liquid, or gaseous fuels and withdrawn for use external to the heater at pressures not exceeding one hundred sixty (160) psi and temperatures not exceeding two hundred ten degrees Fahrenheit (210 °F). Water heaters include service water heaters, domestic water heaters, potable water heaters, [pool heaters] and car wash hot water supply boilers. The term “water heater” does not include vessels used solely for closed loop hot water heating service.

[(46)](50) Variance—An exception to the Act or these rules authorized by the board for the installation, inspection, repair, or alteration of a boiler, water heater, or pressure vessel.

AUTHORITY: section 650.215, RSMo 2000. Original rule filed May 12, 1986, effective Oct. 27, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 30, 2009.

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 Division of Fire Safety, PO Box 844, 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 40—Division of Fire Safety
Chapter 2—Boiler and Pressure Vessel Safety Rules**

PROPOSED AMENDMENT

11 CSR 40-2.015 Code/Standards Adopted by Board. The Board of Boiler and Pressure Vessel Rules is amending sections (1) through (6), deleting section (8), and adding new sections (8) through (11).

PURPOSE: This amendment changes the code book years currently adopted by the board and adds new codes and standards adopted by the board.

(1) ASME Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, ASME Boiler and Pressure Vessel Code is published by the American Society of Mechanical Engineers. A copy of this code can be obtained from The American Society of Mechanical Engineers, Three Park Ave, New York, NY 10015-5990 or Internet: www.asme.org, Phone: 1 (800) 843-2763. This regula-

tion does not include any later amendments or additions to the ASME Boiler and Pressure Vessel Code:

- (A) [2004] 2007 ASME Boiler and Pressure Vessel Code;
- (B) [2005] 2008 Addendum;

(2) National Board Inspection Code (ANSI/nb23), The National Board Inspection Code is published by The National Board. A copy of this code may be obtained from The National Board, 1055 Crupper Ave, Columbus, OH 43229-1183 or Internet: www.nation-alboard.org, Phone: (614) 888-8320. This regulation does not include any later amendments or additions to the National Board Inspection Code. NB-23—Manual for Boiler and Pressure Vessel Inspectors:

- (A) [2004] 2007 Edition; Parts 1, 2, and 3, with Part 2 being permissive; and
- (B) [2004] 2008 Addendum.

(3) ASME Code for Power Piping, B31.1 of the American Society of Mechanical Engineers, [2004 Edition]. ASME Boiler and Pressure Vessel Code is published by the American Society of Mechanical Engineers. A copy of this code can be obtained from The American Society of Mechanical Engineers, Three Park Ave, New York, NY, 10015-5990 or Internet: www.asme.org, Phone: 1 (800) 843-2763. This regulation does not include any later amendments or additions to the ASME Boiler and Pressure Vessel Code.

- (A) 2007 Edition.
- (B) 2008 Addendum.
- (C) Adopted for Boiler Proper and Boiler External Piping only; requirements for Non-Boiler External Piping and Joint (NBEP) as defined in B31.1 2007 Edition are permissive.

(4) Code for Controls and Safety Devices for Automatically Fired Boilers CSD-1-[1998]2009 Edition of the American Society of Mechanical Engineers. The Code for Controls and Safety Devices for Automatically Fired Boilers CSD-1-[1998]2006 edition is published by the American Society of Mechanical Engineers. A copy of this code may be obtained from [Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112 or Internet: http://www.ih.com/, Phone: 1 (800) 854-7179] The American Society of Mechanical Engineers, Three Park Ave, New York, NY 10015-5990 or Internet: www.asme.org, Phone: 1 (800) 843-2763. This regulation does not include any later amendments or additions to the Code for Controls and Safety Devices for Automatically Fired Boilers CSD-1-[1998]2006.

- (A) With part CM being permissive.

(5) NFPA 85, Boiler and Combustion Systems Hazards Code, [2001] 2007 Edition. The Boiler and Combustion Systems Hazards Code NFPA 85 [2001] 2007 Edition is published by the National Fire Protection Agency. A copy of this code may be obtained from National Fire Protection Agency, 1 Battery Park, Quincy, MA 02169-7471, Internet: www.nfpa.org, Phone: 1 (617) 770-3000. This regulation does not include any later amendments or additions to the Boiler and Combustion Systems Hazards Code NFPA 85 [2001] 2007 Edition.

(6) NFPA 54, National Fuel Gas Code (ANSI Z221.1-2006), [2002] 2009 Edition. The National Fuel Gas Code NFPA 54 [2002] 2009 Edition is published by the National Fire Protection Agency. A copy of this code may be obtained from National Fire Protection Agency, 1 Battery Park, Quincy, MA 02169-7471, Internet: www.nfpa.org, Phone: 1 (617) 770-3000. This regulation does not include any later amendments or additions to the National Fuel Gas Code NFPA 54 [2002] 2009 Edition.

[(8) International Mechanical Code, 2000. The International Mechanical Code is published by the International Codes Council. A copy of this code may be obtained from Global

Engineering Documents, 15 Inverness Way East, Englewood CO 80112 or Internet: <http://www.ihc.com/>, Phone: 1 (800) 854-7179. This regulation does not include any later amendments or additions to the International Mechanical Code 2000 edition.]

(8) American National Standard/CSA Standard For Gas-Fired Pool Heaters (ANSI Z21.56-2006/CSA 4.7-2006). A copy of this standard may be obtained from CSA America, 8501 East Pleasant Valley Road, Cleveland, OH 44131-5575, Internet: www.csa-america.org, Phone: (216) 524-4990. This regulation does not include any later amendments or additions to the Standard for Gas-Fired Pool Heaters, 2006 edition.

(9) American National Standard/CSA Standard for Gas Water Heaters (ANSI Z21.10.3-2004/CSA 4.3 2004). A copy of this standard may be obtained from CSA America, 8501 East Pleasant Valley Road, Cleveland, OH 44131-5575, Internet: www.csa-america.org, Phone: (216) 524-4990. This regulation does not include any later amendments or additions to the Standard for Gas Water Heaters, 2004 edition.

(10) NFPA 31-Standard for Installation of Oil-Burning Equipment 2006 edition. The Standard for Installation of Oil-Burning Equipment is published by the National Fire Protection Agency. A copy of this code may be obtained from National Fire Protection Agency, 1 Battery Park, Quincy, MA 02169-7471, Internet: www.nfpa.org, Phone: (617) 770-3000. This regulation does not include any later amendments or additions to The Standard for Installation of Oil-Burning Equipment 2006 edition.

(11) ASME PVHO-1-2007, Safety Standard for Pressure Vessels for Human Occupancy. A copy of this code can be obtained from The American Society of Mechanical Engineers, Three Park Ave, New York, NY 10015-5990 or Internet: www.asme.org, Phone: 1 (800) 843-2763. This regulation does not include any later amendments or additions to the ASME Safety Standard for Pressure Vessels for Human Occupancy 2007 edition.

AUTHORITY: section 650.215, RSMo 2000. Original rule filed Sept. 25, 2002, effective May 30, 2003. Amended: Filed Jan. 12, 2006, effective June 30, 2006. Amended: Filed June 30, 2009.

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.

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**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 2—Boiler and Pressure Vessel Safety Rules**

PROPOSED AMENDMENT

11 CSR 40-2.022 Certificates, Inspections and Fees. The Board of Boiler and Pressure Vessel Rules is amending sections (2), (4), (9), (13), and (14).

PURPOSE: This amendment clarifies the fees for types of boilers and

water heaters using terminology that is more commonly used by manufacturers and changes the requirements for submitting inspection reports.

(2) Initial Inspection and Tagging an Object.

(A) Upon completion of the installation of a boiler, water heater, **pool heater**, or pressure vessel, or at the time of the initial certificate inspection, each object shall be stamped or tagged with a unique serial number issued by the state. The stamping will consist of letters and figures to be not less than five-sixteenths inch (5/16") in height and arranged as follows:

MO 123456

Alternatively, a metal tag issued by the chief inspector may be securely affixed using screws, rivets, wire, or other means so that the tag cannot be easily removed. The "MO" number or metal tag (not less than one inch by four inches (1" x 4") in size) shall have the serial number of the state stamped on it and may not be transferred to any other object. The tag or stamping shall be readily visible and placed as close to the ASME nameplate as practical. The tag shall preferably be attached directly to the object.

(4) Frequency of inspection of heating boilers, water heaters, **pool heaters**, and **fired** jacketed steam kettles.

(B) Hot water heating boilers and **fired** jacketed steam kettles shall be inspected every two (2) years.

1. Hot water heating and hot water supply boilers over thirty (30) years old shall be internally inspected every two (2) years where construction permits, otherwise the inspection shall be as complete as possible while the boiler is in operation.

2. Hot water heating and hot water supply boilers that are not over thirty (30) years old shall be externally inspected every two (2) years. The inspector may mandate an internal inspection if the inspector feels it is necessary.

3. Water heaters, **pool heaters**, and **fired** jacketed steam kettles shall be externally inspected every two (2) years.

(9) Inspection Reports.

(A) Inspectors shall submit to the chief inspector an inspection report on *[forms]* **the Missouri Boiler and Pressure Vessel website or by electronic interface in a format** acceptable to the board for each boiler, water heater, **pool heater**, and pressure vessel subject to inspection in this state. Complete data and calculations that may be required by these rules shall be submitted for each nonstandard boiler, water heater, or pressure vessel when it is first tagged or stamped with a state number.

(13) Issuance of Certificates.

(A) Upon completion of a satisfactory inspection, an inspection certificate shall be issued for each boiler, water heater, or pressure vessel conforming to these rules following payment of the required fees by the owner or user. **When conflict exists between the owner and user concerning the repairs or payment of fees for any object, the owner is ultimately responsible for the payment of fees and/or repairs.** Payment shall be made payable to the Division of Fire Safety.

(14) Fee Schedule.

(A) Inspections by the chief inspector or deputy inspector shall be paid in accordance with the fee schedule below. These inspection fees are in addition to the inspection certificate fee.

1. Power Boilers:

A. Internal inspections—

4,000 lbs/hr capacity or less	\$35
Over 4,000 lbs/hr up to 16,000 lbs/hr	\$60
16,000 lbs/hr or greater	Hourly Rate

B. External Inspections—

4,000 lbs/hr capacity or less	\$25
Over 4,000 lbs/hr	\$35

2. Heating Boilers, Water Heaters, Pool Heaters, and Fired Vessels:

- A. Internal inspections—
 - 4,000 lbs/hr capacity or less \$35
 - [4,000–Over] Greater than 4,000 lbs/hr \$45
- B. External inspections—
 - Hot water heating boilers, hot water supply boilers, pool heaters, circulating water heaters, and steam heating boilers less than or equal to 15 psi [steam boilers] \$25
 - [Hot water supply boilers,] Fired storage water heaters[,] and fired jacketed steam kettles \$18

- 3. Pressure Vessels:
 - A. 1,000 cu. ft. (7,500 gal.) or less in volume \$16
 - B. Over 1,000 cu. ft. (7,500 gal.) in volume \$25
 - C. Internal inspection requiring entry Hourly Rate
 - D. No more than one hundred twenty dollars (\$120) shall be charged for any one (1) pressure vessel, except inspection under sub-paragraph (14)(A)3.C., in any one (1) year for a routine certificate inspection.

AUTHORITY: section 650.215, RSMo 2000. Original rule filed Sept. 25, 2002, effective May 30, 2003. Amended: Filed June 30, 2009.

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 Division of Fire Safety, PO Box 844, 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 40—Division of Fire Safety
Chapter 2—Boiler and Pressure Vessel Safety Rules**

PROPOSED AMENDMENT

11 CSR 40-2.030 Power Boilers. The Board of Boiler and Pressure Vessel Rules is amending section (5).

PURPOSE: This amendment clarifies installation requirements and brings requirements in line with the National Board Inspection Code as required by statute.

(5) General Requirements for Power Boilers.
(A) Boilers with heat input [of] less than 12,500,000 British thermal units per hour (Btu/hr) [or less] contracted after January 1, 2004, shall meet the requirements of ASME CSD-1. Fuel gas piping for these boilers shall comply with the requirements of National Fire Protection Association (NFPA) 54. **Oil burning equipment shall comply with the requirements of NFPA 31.** Single unit boilers with heat input greater than or equal to 12,500,000 Btu/hr, **boilers with pulverized fuel systems, and waste heat boilers** shall meet the requirements of NFPA 85. **All controls required by NFPA 85 for automatically fired boilers shall be installed in accordance with the installation requirements of ASME CSD-1.** Existing installations are exempt from these rules except that any modification or replacements to the controls after January 1, 2004, shall meet the requirements for new installations. **Boilers installed on or after January 1, 2010, must be in accordance with the National Board**

Inspection Code, Part 1, and these rules.

(F) **All existing [B/]boilers** shall have adequate clearance on all sides and top to facilitate repair, maintenance, and inspection. [Manufacturer’s recommendations should be followed but in no case shall the clearance be less than eighteen inches (18”) on all sides of the boiler, and forty-eight inches (48”) on the burner end.] **Boilers installed or reinstalled on or after January 1, 2010, shall meet the following requirements:**

1. There shall be at least thirty-six inches (36”) of clearance on each side of the boiler. Boilers in battery shall not be installed any closer than forty-eight inches (48”). The front and rear of the boiler shall not be located nearer than thirty-six inches (36”) from any wall or structure;

2. Boilers shall be installed to allow for removal and installation of tubes;

3. Boilers with top-opening manholes shall have at least eighty-four inches (84”) of unobstructed clearance above the manhole to the ceiling of the boiler room;

4. Boilers without top-opening manholes shall have at least thirty-six inches (36”) clearance from the top of the boiler; and

5. Boilers with bottom openings used for inspection or maintenance shall have at least twelve inches (12”) of unobstructed clearance.

6. **Note: Alternatively, clearances in accordance with the manufacturer’s recommendations are subject to the approval of the chief inspector.**

[(H) Combustion air shall be provided for each boiler room and shall meet the following requirements:

1. A permanent source of air from outside the building shall be provided for each boiler room to permit satisfactory combustion of fuel for the objects as well as provide proper ventilation of the boiler room under normal operating conditions;

2. The total requirements of the burners for all coal, oil, or gas fired objects shall be used to determine the air opening(s). The following minimums shall be met:

Input (Btu/hr)	Minimum Net Required Air (cu. ft./min.)	Louvered Area (square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3

Note: For heat input greater than 4,000,000 Btu/hr, use the following formula to determine required louvered area: (Btu/hr/10,000) × 2.5 = cu. ft. per minute. Divide cu. ft. per minute by 300 = net square feet of louvered area required;

B. Mechanical ventilation may be used in lieu of (5)(H)2.A. above provided the ventilation is interlocked with the burner fan so the firing device will not operate with the fan off. The velocity of air through the ventilating fan shall not exceed five hundred (500) feet per minute and the total air delivered shall be equal to or greater than that shown in (5)(H)2.A.;

C. In lieu of (5)(H)2.A. and (5)(H)2.B., the combustion air requirements of the International Mechanical Code may be used;

D. Combustion air shall not be blocked when the boiler is in operation. Opening boiler room door(s) and/or window(s) is unacceptable for supplying combustion air.]

(H) Ladders and runways shall be provided between or over the top of boilers installed or reinstalled on or after January 1, 2010, that are more than eight feet (8') above the operating floor to afford accessibility for normal operation, maintenance, and

inspection. These ladders and runways must be built and installed in accordance with the National Board Inspection Code, Part 1.

(I) Combustion air—The boiler room shall have an adequate air supply to permit clean, safe combustion, minimize soot formation, and maintain a minimum of nineteen and one-half percent (19.5%) oxygen in the air of the boiler room. The combustion and ventilation air shall be supplied by an unobstructed opening or by power ventilation or fans.

1. Unobstructed air openings shall be sized on the basis of one (1) sq. in. (6.50 sq.mm) free area per two thousand British thermal units per hour (2,000 Btu/hr) (five hundred eighty-six watts per hour (586 W/hr)) maximum fuel input of the combined burners located in the boiler room or as specified in the National Fire Protection Association (NFPA) standards for oil and gas burning installations for the particular job conditions. The boiler room air supply openings shall be kept clear at all times.

2. Power ventilators or fans shall be sized on the basis of 0.2 cfm (.0057 cm/m) for each one thousand British thermal units per hour (1,000 Btu/hr) (two hundred ninety-three watts per hour (293 W/hr)) of maximum fuel input for the combination burners of all boilers located in the boiler room. Additional capacity shall be required for any other fuel burning equipment in the boiler room.

3. When power ventilators or fans are used to supply combustion air, they shall be installed with interlock devices so that the burners will not operate without an adequate number of ventilators/fans in operation.

4. When combustion air is supplied to the boiler by an independent duct, with or without the employment of power ventilators or fans, the duct shall be sized and installed in accordance with the manufacturer's recommendations. However, ventilation of the boiler room must still be considered.

5. Care should be taken to ensure that steam and water lines are not routed across combustion air openings, where freezing may occur.

6. Opening boiler room door(s) and/or window(s) is unacceptable for supplying combustion air.

(J) Controls—

1. Oil-fired, gas-fired, and electrically heated boilers shall be equipped with suitable primary (flame safeguard) safety controls, limit switches, and burners or electric elements that are labeled and listed by a nationally or internationally recognized standard.

2. All controls and devices shall be installed in accordance with the manufacturer's recommendations, and/or industry standards, as applicable.

3. All automatically fired boilers shall have a disconnecting means capable of being locked in the open position and shall be installed at an accessible location in the same room as the object. This disconnect means shall disconnect all sources of potential from the object.

4. A manually operated remote shutdown switch or circuit breaker shall be located just outside the entrance door of the room the object is located in and be marked for easy identification. Consideration should be given to the type and location of the switch to safeguard against tampering. If the entrance door is on the building exterior, the switch should be located just inside the door. If there is more than one (1) door to the room, there should be a switch located at each door. The emergency switch must be installed in accordance with the manufacturer's instructions or a nationally recognized standard and must cause a safety shutdown and lockout.

[(I)](K) Code nameplates shall remain readily accessible at all times. Loose or missing nameplates shall be replaced or reattached as provided for in the NBIC.

[(J)](L) Rental boilers used for temporary service shall meet all of the requirements of these rules.

AUTHORITY: section 650.215, RSMo 2000. Original rule filed May 12, 1986, effective Oct. 27, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed June 30, 2009.

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 Division of Fire Safety, PO Box 844, 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 40—Division of Fire Safety
Chapter 2—Boiler and Pressure Vessel Safety Rules**

PROPOSED AMENDMENT

11 CSR 40-2.040 Heating Boiler. The Board of Boiler and Pressure Vessel Rules is amending sections (2), (3), and (4).

PURPOSE: This amendment clarifies how pool heaters and fired jacketed steam kettles are classified, clarifies installation requirements, and brings requirements in line with the National Board Inspection Code as required by statute.

(2) Heating Boilers, Water Heaters, **Pool Heaters**, and Fired Jacketed Steam Kettles, Installed or Contracted for Prior to November 12, 1986.

(A) The service life of any boiler, water heater, **pool heater**, or fired jacketed steam kettle of standard construction shall be unlimited, provided:

1. It meets the inspection requirements of 11 CSR 40-2.022; and

2. All controls and safety devices required by American Society of Mechanical Engineers (ASME) Section IV Code for heating boilers and water heaters and ASME Section VIII, Division 1 Code for **fired** jacketed steam kettles and these rules, shall be installed and operable.

(B) The service life of any heating boiler, water heater, **pool heater**, or **fired** jacketed steam kettle of nonstandard construction shall be thirty (30) years. The thirty (30)-year life may be extended with the chief inspector's approval and compliance with the following requirements:

1. The operating pressure cannot exceed the maximum allowable working pressure (MAWP). The boiler, water heater, or jacketed steam kettle MAWP shall be calculated in accordance with the ASME Code or the requirements of the original code of construction. Objects manufactured to a standard other than the ASME Code shall be evaluated in accordance with the "state special" requirements in accordance with 11 CSR 40-2.064. The allowable stress shall be no greater than eleven thousand pounds per square inch (11,000 psi). The joint efficiency shall be in accordance with the appropriate edition and addenda of the ASME Code, most applicable for the type of construction. The MAWP of any cast iron boiler shall not be greater than fifteen (15) psi steam or thirty (30) psi water pressure;

2. A pressure test shall be conducted every four (4) years at normal operating pressure not to exceed the MAWP of the object. The test pressure shall be held for at least thirty (30) minutes without evidence

of leakage and documented to the satisfaction of the inspector. The inspector need not witness the test. The test may be an *[in operation]* operational test. If the object exhibits any signs of leakage, it shall be repaired prior to restoring the object to service;

3. All safety devices and controls required by the applicable ASME Code and these rules shall be installed and operable.

(3) Heating Boilers, Water Heaters, **Pool Heaters**, and Fired Jacketed Steam Kettles Contracted after November 12, 1986.

(A) New and second-hand heating boilers, *[and]* water heaters, **and pool heaters** shall be designed, fabricated, and installed to the requirements of ASME Section IV Code and these rules. New and second-hand fired jacketed steam kettles shall be designed, fabricated, and installed to the requirements of ASME Section VIII, Division 1 Code and these rules.

(4) General Requirements for Heating Boilers, Water Heaters, **Pool Heaters**, and **Fired Jacketed Steam Kettles**.

(A) Heating boilers, water heaters, **pool heaters**, and **fired** jacketed steam kettles shall not be operated for a purpose not originally intended by the manufacturer unless approved by the board (i.e., potable water heaters may not be operated as a steam or hot water heating boiler).

(B) Heating boilers, water heaters, pool heaters, and fired jacketed steam kettles must be installed in accordance with the manufacturer's instructions and these rules, unless otherwise approved by the chief inspector.

[(B)](C) Heating boilers with heat input *[of]* less than 12,500,000 British thermal units per hour (Btu/hr) *[or less]* contracted after January 1, 2004, shall meet the requirements of ASME CSD-1. Fuel gas piping for these boilers shall comply with the requirements of National Fire Protection Association (NFPA) 54. **Oil burning equipment shall comply with the requirements of NFPA 31.** Single unit boilers with heat input greater than or equal to 12,500,000 Btu/hr, **boilers with pulverized fuel systems, and waste heat boilers** shall meet the requirements of NFPA 85. **All controls required by NFPA 85 for automatically fired boilers shall be installed in accordance with the installation requirements of ASME CSD-1.** Existing installations are exempt from these rules except that any modification or replacements to the controls after January 1, 2004, shall meet the requirements for new installations. **Boilers installed on or after January 1, 2010, must be in accordance with the National Board Inspection Code, Part 1, and these rules.**

[(C)](D) All safety and safety relief valve outlets shall be piped to a safe discharge. There shall be no valves on the outlet piping or between the boiler and the safety or safety relief valve inlet. The end of all discharge piping shall be visible to the operator when piped into a drain. Drains on safety or safety relief valve bodies shall remain open at all times. Safety or safety relief valve inlet and outlets shall not be reduced. Weighted lever safety valves are prohibited. Safety valves with either the seat or disk of cast iron are prohibited. The minimum valve capacity shall be in accordance with ASME Section IV Code for heating **boilers** and hot water heaters and Appendix 19 of ASME Section VIII, Division 1 Code for fired jacketed steam kettles. Alternatively, the relieving capacity for heating boilers may be determined based on the burner output rating or by multiplying the heating surface in square feet by the applicable value in the following table:

Minimum Pounds of Steam Per Hour Per Square Foot of Heating Surface

	Fire Tube Boiler	Water Tube Boiler
Boiler		
Hand fired	5	6
Stoker fired	7	9
Oil, gas, pulverized fuel fired	8	10

Waterwall		
Hand fired	8	8
Stoker fired	10	10
Oil, gas, pulverized fuel fired	14	16

When a boiler is fired only by a gas having a heat value not in excess of two hundred (200) Btu/cubic feet (cu. ft.), the minimum safety or safety relief valve capacity may be based on the value given for hand fired boilers. The minimum safety or safety relief valve capacity for electric boilers shall be **three and one-half (3.5)** pounds per hour per kilowatt input.

[(D)](E) Each heating boiler, water heater, and jacketed steam kettle shall be safely supported. There shall be no excessive vibration in either the object or the connecting piping.

[(E)](F) **All existing** *[H]* heating boilers, water heaters, **pool heaters**, and **fired** jacketed steam kettles shall have adequate clearance on all sides and top to facilitate repair, maintenance, and inspection. *[Manufacturer's recommendations shall be followed, but in no case shall the clearance be less than eighteen inches (18") on all sides of the boiler and forty-eight inches (48") on the burner end.]* **Heating boilers, water heaters, pool heaters, and fired jacketed steam kettles, installed or reinstalled on or after January 1, 2010, shall meet the following requirements:**

1. There shall be at least thirty-six inches (36") of clearance on each side of the boiler. Boilers in battery shall not be installed any closer than forty-eight inches (48"). The front and rear of the boiler shall not be located nearer than thirty-six inches (36") from any wall or structure;

2. Boilers shall be installed to allow for removal and installation of tubes;

3. Boilers with top-opening manholes shall have at least eighty-four inches (84") of unobstructed clearance above the manhole to the ceiling of the boiler room;

4. Boilers without top-opening manholes shall have at least thirty-six inches (36") clearance from the top of the boiler;

5. Boilers with bottom openings used for inspection or maintenance shall have at least twelve inches (12") of unobstructed clearance; and

6. Modular heating boilers that require individual units to be set side by side, front to back, or by stacking may provide clearances in accordance with the manufacturer's recommendations with the approval of the chief inspector.

7. Note: Alternatively, clearances in accordance with the manufacturer's recommendations are subject to the approval of the chief inspector.

[(F)](G) All rooms containing heating boilers, water heaters, and jacketed steam kettles with a combined capacity over one (1) million Btu/hr and over five hundred (500) square feet floor area shall have at least two (2) exits remotely located from each other.

[(G) **Combustion air shall be provided for each room and shall meet the following requirements:**

1. A permanent source of air from outside the building shall be provided for each boiler room to permit satisfactory combustion of fuel for the objects as well as provide proper ventilation of the boiler room under normal operating conditions;

2. The total requirements of the burners for all coal, oil, or gas fired objects shall be used to determine the air opening(s). The following minimums shall be met:

A.

Input (Btu/hr)	Minimum Net Required Air (cu. ft./min.)	Louvered Area (square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3

Note: For heat input greater than four (4) million Btu/hr, use the following formula to determine required louvered area: $(\text{Btu/hr}/10,000) \times 2.5 = \text{cu. ft. per minute}$. Divide cu. ft. per minute by 300 = net square feet of louvered area required;

B. Mechanical ventilation may be used in lieu of 11 CSR 40-2.040(4)(G)2.A. provided the ventilation is interlocked with the burner fan so the firing device will not operate with the fan off. The velocity of air through the ventilating fan shall not exceed five hundred (500) feet per minute and the total air delivered shall be equal to or greater than that shown in 11 CSR 40-2.040(4)(G)2.A.;

C. In lieu of 11 CSR 40-2.040(4)(G)2.A. and 11 CSR 40-2.040(4)(G)2.B. the combustion air requirements of the International Mechanical Code may be used.

D. Combustion air shall not be blocked when the heating boiler, water heater, or fired jacketed steam kettle is in operation. Opening room door(s) and/or window(s) is unacceptable for supplying combustion air.]

(H) Ladders and runways shall be provided between or over the top of boilers installed or reinstalled on or after January 1, 2010, that are more than eight feet (8') above the operating floor to afford accessibility for normal operation, maintenance, and inspection. These ladders and runways must be built and installed in accordance with the National Board Inspection Code, Part 1.

(I) Combustion air—The boiler room shall have an adequate air supply to permit clean, safe combustion, minimize soot formation, and maintain a minimum of nineteen and one-half percent (19.5%) oxygen in the air of the boiler room. The combustion and ventilation air shall be supplied by an unobstructed opening or by power ventilation or fans.

1. Unobstructed air openings shall be sized on the basis of one (1) sq. in. (6.50 sq. mm) free area per two thousand British thermal units per hour (2,000 Btu/hr) (five hundred eighty-six watts per hour (586 W/hr)) maximum fuel input of the combined burners located in the boiler room or as specified in the National Fire Protection Association (NFPA) standards for oil and gas burning installations for the particular job conditions. The boiler room air supply openings shall be kept clear at all times.

2. Power ventilators or fans shall be sized on the basis of 0.2 cfm (.0057 cm/m) for each one thousand British thermal units per hour (1,000 Btu/hr) (two hundred ninety-three watts per hour (293 W/hr)) of maximum fuel input for the combination burners of all boilers located in the boiler room. Additional capacity shall be required for any other fuel burning equipment in the boiler room.

3. When power ventilators or fans are used to supply combustion air, they shall be installed with interlock devices so that the burners will not operate without an adequate number of ventilators/fans in operation.

4. When combustion air is supplied to the boiler by an independent duct, with or without the employment of power ventilators or fans, the duct shall be sized and installed in accordance with the manufacturer's recommendations. However, ventilation of the boiler room must still be considered.

5. Care should be taken to ensure that steam and water lines are not routed across combustion air openings, where freezing may occur.

6. Opening boiler room door(s) and/or window(s) is unacceptable for supplying combustion air.

(J) Controls—

1. Oil-fired, gas-fired, and electrically heated heating boilers, water heaters, pool heaters, and fired jacketed steam kettles shall be equipped with suitable primary (flame safeguard) safety controls, limit switches, and burners or electric elements that are labeled and listed by a nationally or internationally recognized standard.

2. All controls and devices shall be installed in accordance with the manufacturer's recommendations, and/or industry standards, as applicable.

3. All automatically fired heating boilers, water heaters, pool heaters, and fired jacketed steam kettles shall have a disconnecting means capable of being locked in the open position and shall be installed at an accessible location in the same room as the object. This disconnect means shall disconnect all sources of potential from the object.

4. A manually operated remote shutdown switch or circuit breaker shall be located just outside the entrance door of the room the object is located in and be marked for easy identification. Consideration should be given to the type and location of the switch to safeguard against tampering. If the entrance door is on the building exterior, the switch should be located just inside the door. If there is more than one (1) door to the room, there should be a switch located at each door. The emergency switch must be installed in accordance with the manufacturer's instructions or a nationally recognized standard and must cause a safety shutdown and lockout.

(K) Each gas-fired water heater contracted after January 1, 2010, must be certified to the American National Standard/CSA Standard for Gas Water Heaters, Volume III (ANSI Z21.10.3 CSA 4.3) and must bear a label as proof of this certification.

(L) Each gas fired pool heater contracted after January 1, 2010, must meet one (1) of the following—

1. Be certified to the American National Standard/CSA Standard For Gas-Fired Pool heaters,(ANSI Z21.56 CSA 4.7) and bear the label as proof of this certification; or

2. Commercial pool heaters applications that do not have one hundred percent (100%) of pool loop water flow circulating through the pool heater may be certified to the American National Standard/CSA Standard for Gas Water Heaters, Volume III (ANSI Z21.10.3 CSA 4.3) and must bear a label as proof of this certification, provided the unit must bear a label from the manufacturer as evidence that the water heater has been approved for commercial pool heating applications when installed per the manufacturer's instructions. Additionally, the manufacturer must provide additional listed temperature controls that will limit the water temperature delivered to the pool from exceeding one hundred eight degrees Fahrenheit (108 °F) with details for the installation of these controls.

[(H)](M) The Code nameplates shall remain readily accessible at all times. Loose or missing nameplates shall be replaced or reattached for in the *National Board Inspection Code*.

[(I)](N) Rental heating boilers, water heaters, and fired jacketed steam kettles, used for temporary service, shall meet all of the requirements of these rules. The internal inspection, required by 11 CSR 40-2.022, may be waived by the inspector, based on documentation that a national board-commissioned inspector has evaluated the internal surfaces of the object within the past twelve (12) months and found the object acceptable for use. An external, in-operation inspection shall be the basis for the inspection certificate. The inspection certificate shall expire no later than twenty-four (24) months from the date of the last internal inspection.

AUTHORITY: section 650.215, RSMo 2000. Original rule filed May 12, 1986, effective Oct. 27, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed June 30, 2009.

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 Division of Fire Safety, PO Box 844, 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 40—Division of Fire Safety
Chapter 2—Boiler and Pressure Vessel Safety Rules**

PROPOSED AMENDMENT

11 CSR 40-2.061 New Installations. The Board of Boiler and Pressure Vessel Rules is amending section (2).

PURPOSE: This amendment clarifies how waste heat boilers are classified.

(2) Minimum construction standards for new boilers, water heaters, and pressure vessels contracted for after November 12, 1986.

(A) All new boilers, water heaters, and pressure vessels shall be designed, constructed, inspected, stamped, and installed in accordance with the American Society of Mechanical Engineers (ASME) Code and these rules, unless exempted from such construction by the Act. Boilers, water heaters, and pressure vessels for which an ASME Manufacturers' Data Report is required[,] shall be registered with the National Board. **All pressure vessels in which steam is generated by the application of heat resulting from the combustion of fuel (solid, liquid, or gaseous) or electrical energy for use external to itself shall be classified as a fired steam boiler.**

AUTHORITY: section 650.215, RSMo 2000. Original rule filed Sept. 25, 2002, effective May 30, 2003. Amended: Filed June 30, 2009.

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 Division of Fire Safety, PO Box 844, 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 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

PROPOSED AMENDMENT

11 CSR 45-5.100 Chip Specifications. The commission is amending subsection (1)(B), adding new paragraph (1)(C)3., and renumbering the remaining paragraphs.

PURPOSE: This amendment adds a two-dollar (\$2) chip to the denominations authorized.

(1) Value Chips.

(B) Unless otherwise authorized by the commission, value chips may be issued by Class B licensees in denominations of fifty cents, one, two, two and one-half, five, twenty-five, one hundred, five hun-

dred, one thousand, five thousand, and ten thousand dollars (50¢, \$1, \$2, \$2.50, \$5, \$25, \$100, \$500, \$1,000, \$5,000 and \$10,000). The licensees shall have the discretion to determine the denominations to be utilized on its riverboat and the amount of each denomination necessary for the conduct of gaming operations.

(C) Each denomination of value chip shall have a different primary color from every other denomination of value chip. Unless otherwise approved by the commission, value chips shall fall within the colors set forth in this subsection when the chips are viewed both in daylight and under incandescent light. In conjunction with these primary colors, each holder of a Class B license shall utilize contrasting secondary colors for the edge spots on each denomination of value chip. Unless otherwise approved by the commission, no holder of a Class B license shall use a secondary color on a specific denomination of chip identical to the secondary color used by another holder of a Class B license on that same denomination of value chip. The primary color to be utilized by each holder of a Class B license for each denomination of value chip shall be—

1.	50¢	Pink
2.	\$ 1	White
3.	\$ 2	Beige
[3.]4.	\$2.50	Blue
[4.]5.	\$ 5	Red
[5.]6.	\$ 25	Green
[6.]7.	\$100	Black
[7.]8.	\$500	Fire Orange
[8.]9.	\$1,000	Purple
[9.]10.	\$5,000	Gray
[10.]11.	\$10,000	Yellow

AUTHORITY: section[s] 313.004, RSMo 2000 and sections 313.805 and 313.817, RSMo Supp. 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed April 3, 2001, effective Oct. 30, 2001. Amended: Filed Oct. 29, 2008, effective April 30, 2009. Amended: Filed June 30, 2009.

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 result in any cost to the casinos, because they are not required to purchase these chips.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for September 9, 2009, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

PROPOSED AMENDMENT

13 CSR 70-3.170 Medicaid Managed Care Organization Reimbursement Allowance. The division is adding section (6).

PURPOSE: This amendment will establish the Medicaid Managed Care Organizations' Reimbursement Allowance for the three (3)-month period of July 1, 2009, through September 30, 2009, at five and forty-nine hundredths percent (5.49%) each Medicaid Managed Care Organization is required to pay for the privilege of engaging in the business of providing health benefit services in this state as required by sections 208.431 to 208.437, RSMo.

(6) Medicaid MCORA Rates for SFY 2010. The Medicaid MCORA rates for SFY 2010 determined by the division, as set forth in subsection (1)(B) above, are as follows:

(A) The Medicaid MCORA will be five and forty-nine hundredths percent (5.49%) of the prior month Total Revenue received by each Medicaid MCO for the three (3)-month period of July 1, 2009, through September 30, 2009. The Medicaid MCORA will be collected for the three (3)-month period of July 1, 2009, through September 30, 2009. No Medicaid MCORA shall be collected by the Department of Social Services if the federal Centers for Medicare and Medicaid Services (CMS) determines that such reimbursement allowance is not authorized under Title XIX of the Social Security Act.

AUTHORITY: sections 208.201, 208.431, and 208.435, RSMo Supp. [2007] 2008. Original rule filed June 1, 2005, effective Dec. 30, 2005. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 19, 2009, effective July 1, 2009, expires Sept. 30, 2009. Amended: Filed July 1, 2009.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an estimated fifty thousand dollars (\$50,000) in state fiscal year 2010.

PRIVATE COST: This proposed amendment will cost private entities \$20,708,972 in state fiscal year 2010.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

Rule Number and Name:	13 CSR 70-3.170 Medicaid Managed Care Organization Reimbursement Allowance
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	SFY 2010 - \$50,000

III. WORKSHEET

For SFY 2010, since the capitation rates must be increased to reflect the additional cost to the Medicaid MCOs and the capitation payments must be actuarially sound, additional administrative costs will be incurred by the Department to obtain this actuarial certification to satisfy federal managed care rules. The Department estimates an additional \$50,000 in actuarial costs for this certification.

IV. ASSUMPTIONS

Since the provider tax is a cost of doing business in the state, the administration portion of the Medicaid MCO capitation payment would increase to take into account the tax paid on a per member, per month basis. All amounts remitted shall be deposited in the Medicaid Managed Care Organization Reimbursement Allowance Fund for the sole purpose of providing payment to the Medicaid managed care organizations.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

Rule Number and Title:	13 CSR 70-3.170 Medicaid Managed Care Organization Reimbursement Allowance
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
6	Medicaid Managed Care Organizations doing business in the State of Missouri	SFY 2010=\$20,708,972

III. WORKSHEET

The fiscal note is based on establishing the SFY 2010 MCORA assessment percentage at 5.49% for the three month period of July 2009 through September 2009.

IV. ASSUMPTIONS

The SFY 2010 MCORA assessment is based on prior month total revenue multiplied by 5.49% tax assessment rate for July 2009 through September 2009. The estimated impact of the Medicaid Managed Care provider tax assessment is \$20.7 million.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates. The division is adding paragraph (3)(A)14.

PURPOSE: This amendment provides for a per diem increase to nursing facility and HIV nursing facility reimbursement rates by granting a trend adjustment resulting in an increase of five dollars and fifty cents (\$5.50) effective for dates of service beginning July 1, 2009.

(3) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed in 13 CSR 70-10.015, a nursing facility's reimbursement rate may be adjusted as described in this section. Subject to the limitations prescribed in 13 CSR 70-10.080, an HIV nursing facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of four and six-tenths percent (4.6%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in *[paragraph] subsection* (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of three and seven-tenths percent (3.7%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in *[paragraph] subsection* (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

3. Nursing Facility Reimbursement Allowance (NFRA). Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the current NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, shall be granted an increase to their per diem effective November 1, 1996, of two dollars and forty-five cents (\$2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category, and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change

in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category, and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

6. FY-98 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of three and four-tenths percent (3.4%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in *[paragraph] subsection* (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

7. FY-99 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of two and one-tenth percent (2.1%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in *[paragraph] subsection* (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of one and ninety-four hundredths percent (1.94%) of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in *[paragraph] subsection* (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

9. FY-2004 nursing facility operations adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003, through June 30, 2004, of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003, and is effective for payment dates after August 1, 2003.

10. FY-2007 quality improvement adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2006, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2006, of three dollars and seventeen cents (\$3.17) to improve the quality of life for nursing facility residents.

B. The quality improvement adjustment shall be added to the facility's current rate as of June 30, 2006, and is effective for dates of service beginning July 1, 2006, and after.

11. FY-2007 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on February 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning February 1, 2007, of three dollars and zero cents (\$3.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's reimbursement rate as of January 31, 2007, and is effective for dates of service beginning February 1, 2007, for payment dates after March 1, 2007.

12. FY-2008 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2007, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2007, and is effective for dates of service beginning July 1, 2007.

13. FY-2009 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2008, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2008, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2008, and is effective for dates of service beginning July 1, 2008.

14. FY-2010 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2009, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2009, of five dollars and fifty cents (\$5.50) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2009, and is effective for dates of service beginning July 1, 2009.

AUTHORITY: section 208.159, RSMo 2000 and sections 208.153 and 208.201, RSMo Supp. [2007] 2008. Original rule filed July 1, 2008, effective Jan. 30, 2009. Emergency rule filed Oct. 3, 2008, effective Oct. 13, 2008, expired April 10, 2009. Amended: Filed July 1, 2009.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$55,861,282 for SFY 2010.

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 Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 10 - Nursing Home Program

Rule Number and Name:	13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	SFY 2010 = \$55,861,282

III. WORKSHEET

SFY 2010:

Description	Nursing Facility Per Diem Incr.	NFRA Add-On Increase	Effect on Hospice in NF	Total Impact
Estimated Paid Days Impacted: SFY 2010 x Per Diem Rate Increase	8,500,610 \$5.50	8,500,610 \$0.65	613,447 \$5.84	
Total Estimated Impact: SFY 2010	\$46,753,355	\$5,525,397	\$3,582,530	\$55,861,282
State Share	\$16,747,052	\$1,979,197	\$1,283,262	\$20,009,511
Federal Share (64.18%)	\$30,006,303	\$3,546,200	\$2,299,268	\$35,851,771

IV. ASSUMPTIONS

Estimated Paid Days:

Nursing Facility:

The estimated paid days for SFY 2010 are based on the actual Medicaid days paid for nursing facility services during SFY 2008, increased by 1.0% for 2009 and by an additional 0.5% for 2010.

Hospice:

The estimated paid days for SFY 2010 for hospice are based on the actual hospice days provided in nursing facilities from February 2008 through January 2009.

NFRA Add-On Increase:

An increase in the NFRA assessment of \$0.65 from \$8.42 to \$9.07 effective July 1, 2009 as set forth in 13 CSR 70-10.110, impacts this regulation. The NFRA assessment is an allowable cost for reimbursement and is accounted for as an add-on to the per diem rate under this regulation; therefore, the cost has been included in this fiscal note.

Effect on Hospice:

Hospice providers are reimbursed 95% of the nursing facility per diem for hospice participants residing in a nursing facility. The total increase to the nursing facility per diem is \$6.15 (\$5.50 + \$0.65). The increase to hospice reimbursement rates resulting from this amendment is \$5.84 (\$6.15 x 95%).

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance. The division is amending section (1) and adding subsection (2)(L).

PURPOSE: This amendment provides for a change in the nursing facility reimbursement allowance rate to nine dollars and seven cents (\$9.07) effective beginning July 1, 2009.

(1) Nursing Facility Reimbursement Allowance (NFRA). NFRA shall be assessed as described in this section.

(A) Definitions.

1. Nursing facility. An institution or a distinct part of an institution which—

A. Is primarily engaged in providing to residents—

(I) Skilled nursing care and related services for residents who require medical or nursing care; or

(II) Rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or

(III) On a regular basis, health-care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities[,] and is not primarily for the care and treatment of mental diseases; and

B. Has in effect a transfer agreement with one (1) or more hospitals as required by federal law; and

C. Meets the requirements for a nursing facility described in section 1919(b)–(d) of the Social Security Act; or

D. Is licensed in accordance with Chapter 198, RSMo, as a skilled nursing facility.

2. Fiscal period. A facility's twelve (12)-month fiscal reporting period covering the same twelve (12)-month period as its federal tax year.

3. Department. Department of Social Services.

4. Director. Director of the Department of Social Services.

5. Division. *[Division of Medical Services]* **MO HealthNet Division**, Department of Social Services.

6. Department of Health and Senior Services (DHSS). The Missouri state agency responsible for licensing and inspecting all long-term care facilities operating in Missouri and certifying annually those facilities participating in the Medicare or Medicaid program.

7. Engaging in the business of providing nursing facility services. Accepting payment for nursing facility services rendered.

8. Quarterly survey. The survey filled out each quarter by a nursing facility providing data on its licensed and certified beds and the related resident occupancy days (ROD) that is submitted to the DHSS. The survey form, "Missouri Department of Health and Senior Services, Division of Senior Services and Regulation, ICF/SNF Certificate of Need Quarterly Survey" (form MO 886-9001 (6-95)), incorporated by reference in this rule, is published by the Department of Health and Senior Services, Division of Senior Services and Regulation, PO Box 570, Jefferson City, MO 65102. This rule does not incorporate any subsequent amendments or additions.

9. Applicable quarterly survey. The quarterly survey used by the division from which the patient occupancy days are taken to determine the NFRA assessment for a given period as set forth in section (2).

10. Patient occupancy days. The number of days that residents occupied the licensed beds in a nursing facility as shown on the quarterly survey, line D. "Number of occupied RODs (days patients in beds or beds held)."

11. Annualized level of patient occupancy days. The annual level of patient occupancy days used to determine the annual NFRA

assessment.

A. For existing nursing facilities whose NFRA assessment is set in accordance with (1)(B)1. of this regulation, the annualized level of patient occupancy days is calculated by taking the number of patient occupancy days shown on line D. of the quarterly survey multiplied by four (4).

B. For nursing facilities whose NFRA assessment is not set by the general rule set forth in (1)(B)1. (i.e., it is an exception set under (1)(B)1.A., is a new facility set under (1)(B)2., qualifies for a NFRA Adjustment in accordance with section (3), etc.), the annualized level of patient occupancy days may be calculated differently and is set forth in those sections.

12. Licensed beds. Any skilled nursing facility or intermediate care facility bed meeting the licensing requirement of the Missouri Department of Health and Senior Services.

13. Licensed bed days. The total number of patient days available for use during a given period for all licensed beds. For purposes of this regulation, licensed bed days are calculated for an annual period and is the number of licensed beds times three hundred sixty-five (365) days.

14. Change of ownership. A change in the ownership, control, operator, or leasehold interest.

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in (1)(B) above, are as follows:

(L) Effective July 1, 2009, the NFRA will be nine dollars and seven cents (\$9.07) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K).

AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436, and 208.159, RSMo 2000 and sections 198.439, [RSMo Supp. 2004] 208.153, and 208.201, RSMo Supp. 2008. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed July 1, 2009.

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

PRIVATE COST: This proposed amendment will cost private entities approximately \$9,718,930 for July 1, 2009–June 30, 2010.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Nursing Home Program

Rule Number and Title:	13 CSR 70-10.110 Nursing Facility Reimbursement Allowance
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate as to the cost of compliance with the rule by the affected entities:
520	Nursing facilities	Annual estimated cost: \$9,718,930

III. WORKSHEET

SFY 2010:

\$8.42 NFRA Rate

Estimated Assessment Days: SFY 2010

14,952,212

x NFRA Rate

\$ 8.42

Total Estimated Impact

\$ 125,897,636

\$9.07 NFRA Rate

Estimated Assessment Days: SFY 2010

14,952,212

x NFRA Rate

\$ 9.07

Total Estimated Impact

\$ 135,616,566

Difference as Impact SFY 2010

\$ 9,718,930

IV. ASSUMPTIONS

Effective July 1, 2009 the Nursing Facility Reimbursement Allowance (NFRA) rate changes from eight dollars and forty-two cents (\$8.42) to nine dollars and seven cents (\$9.07). The determination of the number of assessment days for SFY 2010 is in the current regulation. These days were multiplied by the NFRA rate in effect of \$8.42 which would occur if the proposed amendment was not implemented. The same number of days was multiplied by the proposed NFRA rate of \$9.07. The difference between the \$8.42 and \$9.07 NFRA rate calculated is the impact. After SFY 2010 this amount will become part of the core budget and continue annually until amended.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program**

PROPOSED AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA).
The division is amending section (16) and adding section (17).

PURPOSE: This amendment will revise the State Fiscal Year (SFY) 2009 Federal Reimbursement Allowance (FRA) assessment to five and forty hundredths percent (5.40%) of each hospital's inpatient and outpatient adjusted net revenues as determined from its base year cost report. This amendment will also establish the FRA assessment beginning July 1, 2009, of five and forty hundredths percent (5.40%) of each hospital's inpatient and outpatient adjusted net revenues as determined from its base year cost report.

(16) Federal Reimbursement Allowance (FRA) for State Fiscal Year (SFY) 2009. The FRA assessment shall be determined at the rate of five and [twenty-five] **forty** hundredths percent (*5.25/5.40*%) of each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues from the hospital's 2006 Medicare/Medicaid cost report. The FRA assessment rate of **five and forty hundredths percent** (*5.25/5.40*%) will be applied individually to the hospital's inpatient adjusted net revenues and outpatient adjusted net revenues. The hospital's total FRA assessment for SFY 2009 is the sum of the assessment determined from its inpatient adjusted net revenue plus the assessment determined for its outpatient adjusted net revenue.

(17) **Beginning July 1, 2009, the Federal Reimbursement Allowance (FRA) assessment shall be determined at the rate of five and forty hundredths percent (5.40%) of each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues from the hospital's 2007 Medicare/Medicaid cost report. The FRA assessment rate of five and forty hundredths percent (5.40%) will be applied individually to the hospital's inpatient adjusted net revenues and outpatient adjusted net revenues. The hospital's total FRA assessment beginning July 1, 2009, is the sum of the assessment determined from its inpatient adjusted net revenue plus the assessment determined for its outpatient adjusted net revenue.**

AUTHORITY: section 208.201, RSMo Supp. [2007] 2008 and sections 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 June 19, 2009, effective July 1, 2009, expires Dec. 28, 2009. Amended: Filed July 1, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in SFY 2009 and will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in SFY 2010, which periods cover the anticipated aggregate public cost of the amended rule.

PRIVATE COST: This proposed amendment is expected to cost private entities \$23,585,027 in SFY 2009 and \$880,403,668 in SFY 2010.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publica-

tion of this notice in the *Missouri Register*. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Hospital Program

Rule Number and Title:	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 rule:	Classification by types of the business entities which would likely be affected:	Estimate as to the cost of compliance with the rule by the affected entities:
139	Hospitals	SFY 2009: \$23,585,027
		SFY 2010: \$880,403,668

III. WORKSHEET

The fiscal note is based on revising the FRA assessment rate to 5.40% for SFY 2009 (July 1, 2008 through June 30, 2009), and establishing the FRA assessment rate at 5.40% for SFY 2010 (July 1, 2009 through June 30, 2010).

IV. ASSUMPTIONS

The annual estimated cost of \$23,585,027 for SFY 2009 is the additional FRA assessment resulting from the increase in the SFY 2009 FRA assessment rate from 5.25% to 5.40%.

The FRA assessment rate beginning July 1, 2009 of 5.40%, for July 1, 2009 through June 30, 2010, is levied upon Missouri hospitals' inpatient net adjusted revenue of approximately \$7,709,440,188. The FRA assessment rate of 5.40% is also levied upon Missouri hospitals' outpatient net adjusted revenue of approximately \$5,667,603,229.

The 139 hospitals reported above include 38 hospitals that are owned or controlled by the state, counties, cities, or hospital districts. The impact on these hospitals for the increase in the SFY 2009 FRA assessment rate is \$3,178,537. The impact on these hospitals for the establishment of the SFY 2010 FRA assessment rate is \$122,068,537.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.320 Pharmacy Reimbursement Allowance. The division is amending subsection (2)(E).

PURPOSE: This amendment establishes the Pharmacy Reimbursement Allowance beginning October 1, 2009, at one and twenty hundredths percent (1.20%) of gross retail prescription receipts.

(2) Payment of the PRA.

(E) PRA Rates.

1. The PRA tax rate will be a uniform effective rate of *[eighty-nine hundredths percent (.89%)]* **one and twenty hundredths percent (1.20%)** with an aggregate annual adjustment, by the MO HealthNet Division, not to exceed five hundredths percent (.05%) based on the pharmacy's total prescription volume.

2. The maximum rate shall be five percent (5%).

AUTHORITY: sections 208.201 and 338.505, RSMo Supp. 2008. Emergency rule filed June 20, 2002, effective July 1, 2002, expired Feb. 27, 2003. Original rule filed July 15, 2002, effective Feb. 28, 2003. Amended: Filed Feb. 3, 2003, effective Aug. 30, 2003. Amended: Filed Nov. 3, 2003, effective April 30, 2004. Emergency amendment filed Sept. 12, 2008, effective Sept. 22, 2008, expired March 20, 2009. Amended: Filed Sept. 12, 2008, effective April 30, 2009. Amended: Filed July 1, 2009.

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 \$55,800,000 annually.

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

**FISCAL NOTE
 PRIVATE COST**

- I. Department Title:** Department of Social Services
- Division Title:** MO HealthNet Division
- Chapter Title:** Pharmacy Program

Rule Number and Title:	13 CSR 70-20.320 Pharmacy Reimbursement Allowance
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate as to the cost of compliance with the rule by the affected entities:
1,200	Retail Pharmacies	\$55.8 million

III. WORKSHEET

IV. ASSUMPTIONS

The tax is based on gross retail prescription receipts reported via an affidavit by the pharmacies. Total gross retail prescription receipts for calendar year 2008 were approximately \$4.65 billion. The tax rate for the year is estimated at 1.20%, therefore, the fiscal impact is estimated at \$55.8 million.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2110—Missouri Dental Board
Chapter 2—General Rules**

PROPOSED AMENDMENT

20 CSR 2110-2.120 Dental Assistants. The board is proposing to amend section (1), subsection (3)(E), and section (4), add a new section (5), and renumber the remaining sections accordingly.

PURPOSE: This amendment more clearly defines the duties that can be delegated to an expanded functions dental assistant as well as defines the training a dental assistant should receive in order to be delegated expanded function duties.

(1) Definitions.

(A) Accredited dental assisting program—a dental assisting educational program accredited by the Commission on Dental Accreditation of the American Dental Association.

[(A)](B) Certified dental assistant—a dental assistant who is currently certified by the Dental Assisting National Board, Inc.

[(B)](C) Dental assistant—an employee of a duly registered and currently licensed dentist in Missouri, other than either a dental hygienist or a certified dental assistant.

[(C)](D) Dental auxiliary—either a dental assistant or certified dental assistant as defined in subsections (1)(B) and (C).

[(D)](E) Direct supervision—the following conditions must be satisfied for direct supervision to apply:

1. The dentist is in the dental office or treatment facility;
2. The dentist has personally diagnosed the condition to be treated;
3. The dentist has personally authorized the procedures;
4. The dentist remains in the dental office or treatment facility while the procedures are being performed by the dental auxiliary; and
5. The dentist evaluates the performance of the dental auxiliary before the dismissal of the patient.

(F) Expanded functions dental assistant (EFDA) approved course provider—a provider of expanded function curriculum and competency testing approved by the Missouri Dental Board.

(G) Missouri test of basic dental assisting skills—a test of basic knowledge of dental assisting approved by the board including terminology, principles of asepsis, disinfection and sterilization, and other concepts of dental assisting deemed necessary to master courses in more advanced assisting functions.

[(E)](H) Proof of competence—*[any written document,] documentation*, such as a diploma, a certificate of mastery, or a letter from an approved course provider or competency testing agent stating that the dental auxiliary has successfully completed a board approved course of training and competency testing of that training. *[passed the competency testing for specific functions after having—*

1. Completed an approved course—a course of study offered by an accredited school of dentistry, dental hygiene, or dental assisting or any course approved by the Missouri Dental Board; and
2. Passed an approved competency examination—an examination testing essential knowledge of specifically itemized functions constructed, administered and evaluated by an accredited school of dentistry, dental hygiene, or dental assisting, the Dental Assisting National Board, or any other competency testing agent approved by the Missouri Dental Board.]

(3) A dental assistant or certified dental assistant may assist the administration of and monitor nitrous oxide analgesia under direct supervision if s/he—

(E) Upon presentation to the dental board of proof of competency that the dental assistant or certified dental assistant has complied with the requirements imposed by subsections (3)(A), (B) or (C) of this rule, and remitted the appropriate fee as specified in *[4 CSR 110-2.170] 20 CSR 2110-2.170*, the Missouri Dental Board will issue the appropriate certification to the dental assistant or certified dental assistant.

(4) *[A] Effective December 1, 2010*, a currently licensed dentist may delegate, under direct supervision, functions listed in subsection (4)(D) of this rule to a certified dental assistant or a dental assistant subsequent to submission to the Missouri Dental Board of the following satisfactory proof of competence:

(B) Certified dental assistants graduating prior to June 1, 1995, or from programs outside Missouri, may be delegated the functions in subsection (4)(D) of this rule with proof of competence issued by their educational institutions and may be delegated other specific functions if they have completed an approved course, passed an approved competency examination, and can provide proof of competency as defined in subsection (1)*[(D)](H)*;

(C) Dental assistants, as defined in subsection (1)*[(B)](C)*, may be delegated any specific function listed in subsection (4)(D) of this rule if they have successfully completed *[a basic dental assisting skills mastery examination approved by the board, completed an approved course, passed an approved competency examination,] the board's Missouri Test of Basic Dental Assisting Skills and a board approved expanded functions training course* and can provide proof of competence as defined in subsection (1)*[(D)](H)*;

(D) Functions delegable upon successful completion of competency testing are *[-] divided into five (5) categories—restorative I, restorative II, fixed prosthodontics, removable prosthodontics, and orthodontics and are listed below by category:*

1. Placement of post-extraction and sedative dressings;
 2. Placing periodontal dressings;
 3. Size stainless steel crowns;
 4. Placing and condensing amalgam for Class I, V, and VI restorations;
 5. Carving amalgam;
 6. Placing composite for Class I, V, and VI restorations;
 7. Polishing the coronal surfaces of teeth (air polisher);
 8. Minor palliative care of dental emergencies (place sedative filling);
 9. Preliminary bending of archwire;
 10. Removal of orthodontic bands and bonds;
 11. Final cementation of any permanent appliance or prosthesis;
 12. Minor palliative care of orthodontic emergencies (that is, bend/clip wire, remove broken appliance);
 13. Making impressions for the fabrication of removable prosthesis;
 14. Placement of temporary soft liners in a removable prosthesis;
 15. Place retraction cord in preparation for fixed prosthodontic impressions;
 16. Making impressions for the fabrication of fixed prosthesis;
 17. Extra-oral adjustment of fixed prosthesis;
 18. Extra-oral adjustment of removable prosthesis during and after insertion; and
 19. Placement and cementation of orthodontic brackets and/or bands; and]
1. Restorative I—
 - A. Sizing and cementing of prefabricated crowns;
 - B. Placing, condensing, and carving amalgam for Class I, V, and VI restorations;

C. Placing composite for Class I, V, and VI restorations; and

D. Minor palliative care of dental emergencies (place sedative filling);

2. Restorative II—

A. Sizing and cementing of prefabricated crowns;

B. Placing, condensing, carving, and finishing amalgam for Class I, II, III, IV, V, and VI restorations;

C. Placing and finishing composite for Class I, II, III, IV, V, and VI restorations; and

D. Minor palliative care of dental emergencies (place sedative filling);

3. Orthodontics—

A. Preliminary bending of archwire;

B. Removal of orthodontic bands and bonds;

C. Final cementation of any permanent appliance or prosthesis;

D. Making impressions for the fabrication of any removable or fixed prosthesis/appliance; and

E. Placement and cementation of orthodontic brackets and/or bands;

4. Prosthodontics - Fixed—

A. Place retraction cord in preparation for fixed prosthodontic impressions;

B. Extra-oral adjustments of fixed prosthesis;

C. Final cementation of any permanent appliance or prosthesis; and

D. Making impressions for the fabrication of any fixed prosthesis/appliance; and

5. Prosthodontics - Removable—

A. Placement of temporary soft liners in a removable prosthesis;

B. Extra-oral adjustments of removable prosthesis during and after insertion;

C. Minor palliative care of dental emergencies (place sedative filling); and

D. Making impressions for the fabrication of any removable prosthesis/appliance; and

(5) The board may approve expanded function course providers that satisfy the following minimum criteria:

(A) Use course curriculum approved by the board;

(B) Demonstrate that faculty at each course include at least one (1) dentist and that the student to faculty ratios do not exceed one (1) faculty member per ten (10) students;

(C) Demonstrate that adequate faculty calibration occurs to insure that educational standards are maintained;

(D) Demonstrate that adequate testing, monitoring, and evaluation are in place to assure that graduates can be certified as having attained mastery of the component skills and concepts in a laboratory setting; and

(E) Demonstrate that mechanisms are in place to provide the board with data on the outcomes of expanded duty dental assisting training by reporting on follow-up blind surveys of certified assistants, supervising dentists, and patients.

[[5]](6) A currently licensed dentist may delegate under direct supervision to a dental assistant or certified dental assistant any functions not specifically referenced in sections (2)-(4) of this rule and not considered either the practice of dentistry or the practice of dental hygiene as defined in sections 332.071 and 332.091, RSMo, and [4 CSR 110-2.130] 20 CSR 2110-2.130.

[[6]](7) The licensed dentist is responsible for determining the appropriateness of delegation of any specific function based upon knowledge of the skills of the auxiliary, the needs of the patient, the requirements of the task, and whether proof of competence is required.

[[7]](8) Pursuant to section 332.031.2., RSMo, the dentist is ultimately responsible for patient care. Nothing contained in the authority given the dentist by this rule to delegate the performance of certain procedures shall in any way relieve the supervising dentist from liability to the patient for negligent performance by a dental assistant or certified dental assistant.

AUTHORITY: section 332.031.2, RSMo [1994] 2000. This rule originally filed as 4 CSR 110-2.120. Original rule filed Dec. 12, 1975, effective Jan. 12, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed June 29, 2009.

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 Dental Board, PO Box 1367, Jefferson City, MO 65102, by facsimile at 573-751-8216, or via email at dental@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2234—Board of Private Investigator Examiners
Chapter 1—General Rules**

PROPOSED RULE

20 CSR 2234-1.010 Definitions

PURPOSE: This rule defines terms used in 20 CSR 2234.

(1) Branch office—Any additional office licensed under the primary office.

(2) Division—Division of Professional Registration.

(3) Employee—

(A) Agency non-investigator employee—An employee of an agency who is not a licensed private investigator and does not directly participate in private investigations; or

(B) Agency investigator employee—An individual licensed and supervised through the licensed agency to conduct private investigations.

(4) Executive director—The designee of the director of the division who is responsible for the management of the day-to-day operations of the board.

(5) Individual—A natural person or legal entity.

(6) Primary office—The principle office of a licensed private investigator agency.

(7) Private investigator-in-charge—The licensed private investigator who is responsible for the activities of a private investigator agency.

(8) Law enforcement officer—A person currently certified under existing peace officer standards and training requirements under Chapter 590, RSMo.

AUTHORITY: section 324.1100, RSMo Supp. 2008. Original rule filed June 26, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Private Investigator Examiners, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-751-0878, or via email at pi@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2234—Board of Private Investigator Examiners
Chapter 1—General Rules**

PROPOSED RULE

20 CSR 2234-1.020 General Organization

PURPOSE: This rule describes the organization, general methods of administration, and communication concerning the Board of Private Investigator Examiners.

(1) The purpose of the board is to regulate the practice of private investigating concerning the health, safety, and welfare of the inhabitants of this state; to protect the property of the inhabitants of this state from damage or destruction through the dangerous, dishonest, incompetent, or unlawful practice of private investigating; and to implement and sustain a system for the examination and regulation of licensed private investigators and private investigator agencies in this state.

(2) The board shall meet at least once a year. Additional meetings may be held at the discretion of the board; however, the board shall inform the division of those meetings and the notice of the meeting will be posted in compliance with Chapter 610, RSMo.

(3) Each year, the board shall elect a chair and vice-chair. The chair presides at meetings and works with the executive director on coordinating the board's affairs. If the chair is unable to attend a meeting, the vice-chair shall preside at the meeting.

(4) The board shall act through its executive director who is appointed by the director of the Division of Professional Registration. The executive director shall be responsible for keeping the minutes of board proceedings and perform other duties as requested by the board.

(5) A quorum of the board shall consist of a majority of its members.

(6) Board meetings will generally consist of reviewing applications, interviewing applicants, reviewing complaints and inquiries, determining disciplinary actions regarding a licensed private investigator or private investigator business, making recommendations to staff concerning the conduct and management of board affairs, and other board matters.

(7) Unless otherwise provided by statute or regulation, the board shall be generally guided by and conduct its meetings according to Robert's Rules of Order.

(8) Any person requiring information, an application, or complaint form involving the practice of private investigating as regulated by the board may contact the board.

AUTHORITY: sections 324.1102 and 324.1138, RSMo Supp. 2008. Original rule filed June 26, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately five thousand twenty-three dollars (\$5,023) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Private Investigator Examiners, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-751-0878, or via email at pi@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2234 - Board of Private Investigator Examiners
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2234-1.020 General Organization
 Prepared April 30, 2009 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
State Board of Private Investigator Examiners	\$5,023

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to prepare for board meetings, process per diem requests and respond to requests for public information.
- 2) Expense and equipment costs are incurred for board expenses for preparing board agendas, request for public information, and for board member attendance of the meeting.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure - \$%	Enforcement - \$%
Personal Service	\$2,037	\$1,097
Expense & Equipment	\$1,228	\$661
Transfers	\$0	\$0
TOTAL	\$3,265	\$1,758

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the State Board of Private Investigator Examiners were determined by using allotment figures for personal service, expense and equipment, and transfers based on the number of individuals who requested their name be added to the mailing list for a licensure application. In the future, the office will base on actual costs and actual number of licensees. These annual costs will recur each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 65% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 35% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2– Allocation of Personal Service Dollars

Allocation	Percentage & Category	Dollar Amount
\$62,678	65% Licensure	\$40,741
\$62,678	35% Enforcement	\$21,937

Table 3– Allocation of Expense & Equipment

Allocation	Percentage & Category	Dollar Amount
\$37,790	65% Licensure	\$24,564
\$37,790	35% Enforcement	\$13,227

Table 4– Allocation of Transfer Dollars

Allocation	Percentage & Category	Dollar Amount
\$0	65% Licensure	\$0
\$0	35% Enforcement	\$0

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 5% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 5% of the time will be spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2234—Board of Private Investigator Examiners
Chapter 1—General Rules**

65102, by facsimile at 573-751-0878, or via email at pi@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

PROPOSED RULE

20 CSR 2234-1.030 Policy for Release of Public Records

PURPOSE: This rule establishes the policy in compliance with sections 610.010–610.030, RSMo, regarding the release of information on any meeting, records, or vote of the board.

(1) The Board of Private Investigator Examiners is a public governmental body as defined in Chapter 610, RSMo, and adopts the following as its policy for compliance with the provisions of that chapter. This policy is open to public inspection and implements Chapter 610, RSMo, provisions regarding the release of information of any meeting, record, or vote of the board that is not closed under this chapter.

(2) All public records of the Board of Private Investigator Examiners shall be open for inspection and copying by any member of the general public during normal business hours (8 a.m. to 5 p.m. Monday through Friday; holidays excepted) except for those records required or authorized to be closed under section 610.021 or 324.001.8, RSMo, or any other applicable law. All public meetings of the Board of Private Investigator Examiners will be open to the public except for those required or authorized to be closed under section 610.021 or 324.001.8, RSMo, or any other applicable law.

(3) The executive director shall be the custodian of records as required by section 610.023, RSMo. The executive director is responsible for maintaining board records and responding to requests for access to public records.

(4) The board may charge a reasonable fee pursuant to rules promulgated by the board for the cost of researching, inspecting, and copying the records. Charges and payments of the fees shall be based upon the cost for researching and copying records and shall be according to Chapter 610, RSMo.

(5) All fees collected shall be remitted to the Director of Revenue for deposit to the credit of the Board of Private Investigator Examiners Fund.

(6) The custodian shall maintain a file of copies of all written requests for access to records and responses to the requests. That file shall be maintained as a public record of the board for inspection by any member of the general public during regular business hours.

AUTHORITY: sections 324.1138, RSMo Supp. 2008. Original rule filed June 26, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately three thousand five hundred sixteen dollars (\$3,516) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Private Investigator Examiners, PO Box 1335, Jefferson City, MO

PUBLIC FISCAL NOTE

I. RULE NUMBER**Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2234 - Board of Private Investigator Examiners****Chapter 1 - General Rules****Proposed Rule - 20 CSR 2234-1.030 Policy for Release of Public Records**

Prepared April 30, 2009 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
State Board of Private Investigator Examiners	\$3,516

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to answer inquiries and verify records.
- 2) Expense and equipment costs are incurred for board expenses relating to researching, inspecting and copying the records.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure - 65%	Enforcement - 35%
Personal Service	\$0	\$2,194
Expense & Equipment	\$0	\$1,323
Transfers	\$0	\$0
TOTAL	\$0	\$3,516

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the State Board of Private Investigator Examiners were determined by using allotment figures for personal service, expense and equipment, and transfers based on the number of individuals who requested their name be added to the mailing list for a licensure application. In the future, the office will base on actual costs and actual number of licensees. These annual costs will recur each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 65% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 35% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2– Allocation of Personal Service Dollars

Allotment	Percentage & Category	Dollar Amount
\$62,678	65% Licensure	\$40,741
\$62,678	35% Enforcement	\$21,937

Table 3– Allocation of Expense & Equipment

Allotment	Percentage & Category	Dollar Amount
\$37,790	65% Licensure	\$24,564
\$37,790	35% Enforcement	\$13,227

Table 4– Allocation of Transfer Dollars

Allotment	Percentage & Category	Dollar Amount
\$0	65% Licensure	\$0
\$0	35% Enforcement	\$0

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 0% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 10% of the time will be spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**
Division 2234—Board of Private Investigator Examiners
Chapter 1—General Rules

PROPOSED RULE

20 CSR 2234-1.040 Complaint Handling and Disposition

PURPOSE: This rule establishes a procedure for the receipt, handling, and disposition of complaints involving private investigators.

(1) The Division of Professional Registration, in coordination with the Board of Private Investigator Examiners, will receive and process each complaint made against any licensee, unlicensed individual, or entity, in which the complaint alleges certain acts or practices may constitute one (1) or more violations of provisions of sections 324.1100–324.1148, RSMo, or the administrative rules involving private investigators. Any division staff member or board member may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints may be mailed or delivered to the following address: Board of Private Investigator Examiners, 3605 Missouri Boulevard, PO Box 1335, Jefferson City, MO 65102. However, actual receipt of the complaint by the board at its administrative offices in any manner shall be sufficient. Complaints may be based upon personal knowledge, upon information and belief, or reciting information received from other sources.

(3) All complaints shall be made in writing. Oral or telephone communications will not be considered or processed as complaints, but the person making those communications will be asked to supplement such communications with a complaint. Information received in accordance with this section may be reduced to a complaint by the executive director.

(4) Each complaint received under this rule will be logged and maintained by the board. The log will contain a record of each complainant's name; the name and address of the subject(s) of the complaint; the date each complaint is received by the board; a brief statement concerning the alleged acts or practices; a notation indicating the complaint was closed by the board or a disciplinary action was filed with the Administrative Hearing Commission; and the ultimate disposition of the complaint. This log shall be a closed record of the board.

(5) Each complaint received according to this rule shall be acknowledged in writing. The complainant and the subject of the complaint shall be notified in writing of the ultimate disposition of the complaint.

(6) This rule shall not be deemed to limit the authority to file a complaint with the Administrative Hearing Commission charging the licensee with any actionable conduct or violation, whether or not such a complaint exceeds the scope of the acts charged in a complaint filed with the board.

(7) This rule exists for the benefit of those members of the public who submit complaints to the board. This rule is not deemed to protect or inure to the benefit of those licensees or other persons against whom the board has instituted or may institute administrative or judicial proceedings concerning possible violations of the provisions of sections 324.1100–324.1148, RSMo.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately six thousand five hundred thirty dollars (\$6,530) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Private Investigator Examiners, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-751-0878, or via email at pi@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

AUTHORITY: sections 324.1138 and 324.002, RSMo Supp. 2008.
Original rule filed June 26, 2009.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2234 - Board of Private Investigator Examiners
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2234-1.040 Complaint Handling and Disposition
 Prepared April 30, 2009 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
State Board of Private Investigator Examiners	\$6,530

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to prepare for receiving complaints, acknowledging receipt of the complaint and logging the complaint into the board's tracking system.
- 2) Expense and equipment costs are incurred for board expenses relating to logging and maintaining complaints and corresponding with complainants.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure - 10%	Enforcement - 0%
Personal Service	\$4,074	\$0
Expense & Equipment	\$2,456	\$0
Transfers	\$0	\$0
TOTAL	\$6,530	\$0

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the State Board of Private Investigator Examiners were determined by using allotment figures for personal service, expense and equipment, and transfers based on the number of individuals who requested their name be added to the mailing list for a licensure application. In the future, the office will base on actual costs and actual number of licensees. These annual costs will recur each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 65% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 35% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2– Allocation of Personal Service Dollars

Allotment	Percentage & Category	Dollar Amount
\$62,678	65% Licensure	\$40,741
\$62,678	35% Enforcement	\$21,937

Table 3– Allocation of Expense & Equipment

Allotment	Percentage & Category	Dollar Amount
\$37,790	65% Licensure	\$24,564
\$37,790	35% Enforcement	\$13,227

Table 4– Allocation of Transfer Dollars

Allotment	Percentage & Category	Dollar Amount
\$0	65% Licensure	\$0
\$0	35% Enforcement	\$0

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 10% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 0% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)