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SALUS POPULI SUPREMA LEX ESTO

*“The welfare of the people shall be the supreme law.”*



ROBIN CARNAHAN  
SECRETARY OF STATE

MISSOURI  
REGISTER

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November 2, 2009 November 16, 2009	<b>December 1, 2009</b> <b>December 15, 2009</b>	December 31, 2009 December 31, 2009	January 30, 2010 January 30, 2010
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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—The most recent version of the statute containing the section number and the date.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2009.

## EXECUTIVE ORDER 10-18

WHEREAS, Missouri's children are increasingly disconnected from nature and the outdoors; and

WHEREAS, the incidence of obesity in Missouri children is increasing; and

WHEREAS, children are our most precious resource; and

WHEREAS, personal experience in nature can improve mental ability and sense of well-being; and

WHEREAS, educating children about nature can help build lifelong understanding and concern for the care of our natural resources; and

WHEREAS, healthy natural resources, plants, and animals are important to Missouri's future; and

WHEREAS, Missouri children can benefit from being more connected to nature and the outdoors.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by the virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby establish the Children in Nature Challenge to challenge Missouri communities to take action to enhance children's education about nature, and to increase children's opportunities to personally experience nature and the outdoors. The Departments of Elementary and Secondary Education, Health and Senior Services, Mental Health, Higher Education, and Economic Development shall actively support the Departments of Conservation and Natural Resources to implement this Challenge by:


1. Reaching out to Missouri communities to encourage utilization of existing state programs that help educate children about and connect them with nature and the outdoors;
2. Encouraging Missouri communities to build local programs that expand upon existing state programs;
3. Serving as an informational resource for Missouri communities undertaking this Challenge;
4. Championing the use of the Discover Nature Schools program and other indoor and outdoor instructional components for K-12 curriculum that strengthen children's connection to nature and enhance their education about the environment; and
5. Promoting this Challenge and developing a process to recognize Missouri communities for their efforts and successes in meeting it.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 26<sup>th</sup> day of February, 2010.



ATTEST:

  
\_\_\_\_\_  
Jeremiah W. (Jay) Nixon  
Governor

  
\_\_\_\_\_  
Robin Carnahan  
Secretary of State

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

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

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

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

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

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

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

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

**PROPOSED RESCISSION**

**12 CSR 10-3.249 Sales to Foreign Diplomats.** This rule interpreted the sales tax law as it pertained to sales tax exemptions to foreign diplomats.

*PURPOSE: This rule is being rescinded because the process described is no longer necessary.*

*AUTHORITY: section 144.270, RSMo 1994. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Feb. 26, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

**PROPOSED RESCISSION**

**12 CSR 10-3.830 Diplomatic Exemptions—Records to be Kept by Sellers as Evidence of Exempt Sales.** This rule interpreted the criteria and procedure for obtaining diplomatic exemptions from sales tax based upon the department's participation in the sales tax exemption program.

*PURPOSE: This rule is being rescinded because the process described is no longer necessary.*

*AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as 12 CSR 10-3.027. Original rule filed Dec. 3, 1985, effective Feb. 24, 1986. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Feb. 26, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

**PROPOSED RESCISSION**

**12 CSR 10-3.832 Diplomatic Exemptions—Acknowledgement and Procedure for Requesting.** This rule interpreted the criteria and procedure for obtaining diplomatic exemptions from sales tax based upon the department's participation in the sales tax exemption program.

*PURPOSE: This rule is being rescinded because the process described is no longer necessary.*

*AUTHORITY: section 144.270, RSMo 1994. Original rule filed Dec. 3, 1985, effective Feb. 24, 1986. Rescinded: Filed Feb. 26, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 35—Children’s Division  
Chapter 38—Adoption and Guardianship Subsidy**

**PROPOSED RULE**

**13 CSR 35-38.010 Adoption and Guardianship Subsidy**

*PURPOSE:* This rule is to define the Adoption and Guardianship Subsidy Program.

(1) Definitions. For purposes of this section, the following terms shall mean:

(A) Division. The Missouri Department of Social Services, Children’s Division;

(B) Child or Youth. A person within the state who is under the age of eighteen (18), or in the custody of the Children’s Division, who is in need of medical, dental, educational, mental, or other related health services and treatment, or who belongs to a racial or ethnic minority, who is five (5) years of age or older, or who is a member of a sibling group, and for whom an adoptive home is not readily available. A child or youth is also a person covered by an 18+ adoption subsidy agreement as set forth in section (13) of this regulation;

(C) Subsidy Agreement. The agreement between the adoptive parent(s) or the legal guardian(s) and the Children’s Division to delineate services which the Children’s Division will provide to the child at the time of adoption or guardianship until such time as the subsidy agreement ends;

(D) Maintenance payments. The amount that the division will contribute to cover the cost of food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, and liability insurance with respect to a child;

(E) Nonrecurring expenses. One (1)-time expenses directly related to the adoption or legal guardianship of a special needs child. Nonrecurring expenses include, but are not limited to, the following: legal fees, private agency fees, and nonrecurring placement-related expenses including, but not limited to, pre-placement transportation, lodging and meal expenses, expenses for adoption studies, health and psychological examinations, supervision of the adoptive placement prior to the finalization of the adoption up to a maximum amount provided in this regulation;

(F) Youth with Elevated Needs. A child meeting the criteria set forth in 13 CSR 35-60.070;

(G) Medical Foster Care. A licensed foster home utilized to meet the needs of a child with extraordinary medical needs. Medical foster parents must have a foster parent license and must receive specific training from qualified medical care providers specific to the unique medical needs of the child and meet the requirements set out in 13 CSR 35-60.070;

(H) Respite. The provision of periodic and/or intermittent, temporary substitute care of children who are in the care and custody of the Children’s Division and placed in a licensed foster, relative, or kinship resource home. Respite services may be approved as part of an adoption or guardianship agreement;

(I) Intensive In-Home Services (IIS). A short-term, intensive, home-based, crisis intervention program that combines skill-based interventions with maximum flexibility so that services will be avail-

able to families according to their individual needs. The goal of IIS is to offer families in crisis the alternative of remaining together safely, averting out-of-home placement of children whenever possible. IIS are, however, offered solely to families that have a child or children at imminent risk of removal from the home due to neglect, abuse, family violence, mental illness, delinquency, or other circumstances when approved by the Children’s Division. Services provided assist with crisis management and restoration of the family to an acceptable level of functioning;

(J) Residential Care. A facility providing twenty-four (24) hour care in a group setting to children who are unrelated to the person operating the facility and who are unattended by a parent or guardian;

(K) Registered Childcare Provider. A license-exempt childcare provider maintaining requirements of the Children’s Division to provide subsidized child care through a registration agreement;

(L) Relative. A person related to another by blood or affinity within the third degree (grandparent, brother, sister, half-brother, half-sister, stepparent, stepbrother, stepsister, uncle, aunt, or first cousin);

(M) Kinship. A person who is non-related by blood, marriage, or adoption who has a close relationship with the child or child’s family (godparents, neighbors, teachers, close family friends, and fellow church members) or a person who has a close relationship with the child or child’s family and is related to the child by blood or affinity beyond the third degree; and

(N) Licensed Foster Family. A private residence of one (1) or more family members providing twenty-four (24) hour care to one (1) or more but less than seven (7) children who are unattended by parent or guardian and unrelated to either foster parent by blood, marriage, or adoption and licensed through the Children’s Division.

(2) Eligibility Criteria for Adoption/Legal Guardianship Subsidy.

(A) In order for a child to qualify for an adoption or guardianship subsidy, the child shall meet the following eligibility criteria:

1. The child must be under the age of eighteen (18) at the time of adoptive or guardianship placement; and

2. At the time of planning for adoption or legal guardianship, the child must meet one (1) of the following circumstances:

A. Be in the custody of the Children’s Division; or

B. Children placed in Missouri through a private child-placing agency that are Title IV-E eligible are eligible for Missouri adoption subsidy per Title 42 U.S.C. Section 673(c) (2008). The applicant for the adoption subsidy shall provide sufficient information to the division to determine that the child is Title IV-E eligible; or

C. Be in the custody of a child-placing agency licensed in accordance with sections 210.481 through 210.531, RSMo, the Division of Youth Services (DYS), or the Department of Mental Health (DMH); and a “child with special needs” as defined by the characteristics listed below:

(I) The child cannot or should not be returned to the home of his or her parents. If the division has determined that the child cannot or should not return home, and the child meets the statutory definition of special needs with regard to specific factors or conditions, then the division shall ask whether the prospective adoptive parent(s) are willing to adopt without subsidy. If the adoptive parent(s) say they cannot adopt the child without adoption subsidy, the requirement for a reasonable, but unsuccessful, effort to place the child without providing adoption subsidy under Title 42 U.S.C. Section 673(c) (2008) shall be satisfied;

(II) The division determines, with respect to the child, that a specific condition or conditions of the child exists, because of which it is reasonable to conclude that such child cannot be placed with adoptive parent(s) or guardian(s) without providing subsidy. A child to be determined as previously unadoptable and eligible for subsidy shall meet one (1) or more of the following conditions:

(a) Physical Handicap. Any physical abnormality or condition, whether congenital or not, which requires or is likely to



require treatment or the purchase of special equipment or services;

(b) Intellectual impairment mental development below an IQ of eighty (80) or other intellectual dysfunction as documented by psychological testing;

(c) Racial or Ethnic Minority. The child's ancestry is not Caucasian; and

(d) Other Conditions.

I. Age. The child is five (5) years old or older and has not reached the age of eighteen (18) years or twenty-one (21) years if the child's condition requires extraordinary treatment or rehabilitative services.

II. Member of a sibling group. Two (2) or more children who are siblings and are being placed with the same family.

III. Developmental disability. Any documented physical or mental condition not otherwise listed which prevents the child from functioning at the normal level for his or her age.

IV. A mental or emotional disturbance. A diagnosed and documented condition which impairs the child's mental functioning, including learning dysfunctions.

V. Social maladjustment. A severe behavioral condition or inadequate social development which interferes with the child's ability to form satisfactory relationships with others.

(III) The child has a history, which includes circumstances such as long-term out-of-home care, incest, or social or genetic complication in the family background, which provides other impediments to adoption.

(B) Children who have a subsequent adoption or guardianship because of the dissolution of their adoption or guardianship or the death of their adoptive parent(s) or guardian(s) continue to be eligible for assistance under Title IV-E or Missouri funded subsidy in a subsequent adoption if they were previously eligible.

(C) Unless specifically authorized by federal law, there shall be no income eligibility requirement (means test) for the prospective adoptive parent(s) or guardian(s) in determining eligibility for an adoption or guardianship subsidy.

(3) Ineligible Children for Missouri Adoption and Legal Guardianship Subsidy—The following children shall not be eligible for adoption or guardianship subsidy:

(A) Children being adopted internationally or children adopted from other states who are not Title IV-E eligible and are in the custody of a private child-placing agency;

(B) Children in the custody of Missouri juvenile courts, even though they may receive a payment while in other types of out-of-home care; or

(C) Children being adopted by a stepparent or biological parent whose rights were previously terminated.

(4) Ineligible Placements for Missouri Adoption and Legal Guardianship Subsidy—The following prospective adoptive parent(s) or guardian(s) shall not be eligible to receive an adoption or guardianship subsidy:

(A) Felony convictions—Any person who has a felony conviction for child abuse or neglect, spousal abuse, a crime against children (including child pornography), or a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; and

(B) Any person who in the past five (5) years has had a felony conviction for physical assault, battery, or a drug-related offense.

(5) Application Process.

(A) Any prospective adoptive parent(s) or legal guardian(s) who believe that he or she may be eligible to receive a subsidy on behalf of a qualified child shall complete an application on a form approved by the division.

(B) The division may require the prospective adoptive parent(s) or legal guardian(s) to provide any documents or other materials necessary to verify any information necessary to complete the application

process. The application shall be supplemented with such additional information and documentation as the division may require or the applicant for the subsidy may choose to submit for consideration. All information furnished by an applicant for a subsidy shall be complete, accurate, and truthful. The division may reject an application or reject renewal of an adoption subsidy or guardianship agreement if the division determines that the applicant for the subsidy has failed to provide complete, accurate, or truthful information.

(C) For initial applications, the burden of proof shall be on the applicant to establish eligibility for the subsidy and that they are qualified to receive requested services.

(6) General Regulation Governing All Adoption and Guardianship Subsidy Agreements—The following provisions will govern all agreements for adoption and guardianship subsidy:

(A) Agreements approved to age eighteen (18) will continue until the last day of the month of the child's eighteenth birthday unless previously terminated in the manner provided by law;

(B) All adoption and guardianship subsidy agreements shall be in writing on a form provided by the division. The division shall not be obligated to provide or pay for any services, maintenance payments, or non-recurring expenses which are not expressly and specifically set out in the agreement. The agreement will not be effective unless and until it is signed by the director of the Children's Division or the director's authorized designee and the adoptive parent(s) or legal guardian(s);

(C) Unless otherwise required by law, the Children's Division will not approve or pay for any service through an adoptive or guardianship subsidy agreement which is otherwise paid for or reasonably available at no cost or at reasonable cost through any other sources and which the child or the adoptive parent(s) or guardian(s) may be eligible to receive. Examples of other sources include, but are not limited to, the following: any other governmental programs, programs offered by schools and school districts, private insurance, any public insurance programs (including Medicaid (MO HealthNet) programs), other community-based services, and services and programs provided by not-for-profit organizations;

(D) Under no circumstances will the division or the state of Missouri pay for any services which exceed the authorized amount for the service as set forth in the service section of the agreement. Any amounts which may be due to a provider which exceed the amount that the division is obligated to pay under the agreement shall be the sole responsibility of the adoptive parent(s) or guardian(s). The adoptive parent(s) or guardian(s) shall pay, be responsible for, and indemnify the state of Missouri, the Department of Social Services, and the Children's Division for any amounts which the division may be required to pay in excess of the amounts set forth in the agreement;

(E) Except as otherwise provided in subsection (5)(F) of this regulation, the division is not obligated to make payments to a provider for services authorized through a subsidy agreement, unless the division has a currently active contract with the provider. The division shall not be obligated to pay for any service provided by the service provider, unless the service provider provides an invoice satisfactory to the division itemizing the date the service was provided, describing the nature of the service provided, and stating the amount for the service. The division will pay services directly to the provider. The use of contracted providers is required when a contract may be established. All receipts submitted for reimbursement must be submitted within one hundred eighty (180) days of the service being provided. The division shall not be responsible for paying for any service billed or invoiced to the department later than one hundred eighty (180) days from the date that the service was provided;

(F) The division may reimburse the adoptive parent(s) or guardian(s) for payments made directly by the adoptive parent(s) or guardian(s) to the provider where the provider of the service does not have a contract with the division only if the division agrees in writing before the service is provided to make the payment and if all of

the following conditions are met:

1. The service is one (1) which the division has expressly agreed to pay in the subsidy agreement;

2. The adoptive parent(s) or guardian(s) establishes that there is no service provider having a contract with the division who is reasonably available to provide the service. In cases where the adoptive parent(s) or guardian(s) identifies an appropriate provider who does not have a contract with the division or the state, the division may decide, in its sole discretion, whether or not to enter into a contract with the provider and pay for the services directly, or whether to agree to reimburse the adoptive parent(s) or guardian(s) under this paragraph;

3. The adoptive parent(s) or guardian(s) provides timely documentation satisfactory to the division that the service has actually been provided and that it was provided by a qualified provider of the service. Documentation satisfactory to the division includes providing an invoice and a receipt prepared by the provider; and

4. The adoptive parent(s) or guardian(s) shall provide the invoice and paid receipt to the division no later than thirty (30) days from the date that the service was provided and paid for by the adoptive parent(s) or guardian(s), but under no circumstances shall the division be obligated to reimburse the adoptive parent(s) or guardian(s) for services provided later than ninety (90) days from the date that the services were provided; and

(G) Payment for nonrecurring adoption or guardianship expenses shall be made only after the adoption or guardianship is final. The division will not pay for any nonrecurring adoption or guardianship expenses which are not expressly set out in writing in the adoption or guardianship subsidy agreement or in a separate document executed by the adoptive parent(s) or guardian(s) and by the director of the Children's Division or his/her designee. Under no circumstances shall the division or the state of Missouri be obligated to pay any nonrecurring adoption or guardianship expenses, based on any oral representations made by an employee of the Children's Division or the Department of Social Services. These expenses are not eligible for payment if applied for after final adoption or guardianship. All expenses paid under the guardianship subsidy agreement will only be paid after legal guardianship has been granted by the probate court to a qualified relative in the manner authorized by law.

1. Under no circumstances will an adoption or guardianship subsidy agreement or payment be made to reimburse the adoptive parent(s) or guardian(s) for payment for services provided by the adoptive parent(s) or guardian(s), or member of the adoptive parent(s) or guardian(s) household.

2. The division will not pay for services that are a duplication of other available services.

3. The parties to the agreement may, by mutual, written agreement amend the terms of the subsidy to better meet the needs of the adoptive child. Under no circumstances shall a subsidy agreement be amended without the consent of the adoptive parent(s) or legal guardian(s), or amended in any manner which may be a violation of federal law. Adoptive parent(s) or guardian(s) who wish to request that a subsidy agreement be amended shall submit a written request to amend the agreement. The burden of proof to amend the agreement shall be on the party seeking to amend the agreement. The request shall include the following information: a copy of the agreement, the specific provisions of the agreement they are seeking to amend, a detailed statement of the factual basis for the request for amendment, and include all documentation to support the request to amend the agreement.

4. Overpayments—Any amounts paid to the adoptive parent(s) or guardian(s) in excess of what is required by the subsidy agreement shall be an overpayment which is and shall be immediately due and payable to the division. The adoptive parent(s) or guardian(s) have the duty to notify the division within ten (10) days when he or she receives any information which would lead a reasonable person to believe that an overpayment has been made. The adoptive parent(s) or guardian(s) must promptly repay any overpayment and shall fully

cooperate and promptly provide any and all information that the division may require to investigate and ascertain whether an overpayment has been made. If the division determines that an overpayment has been made, the division shall notify the adoptive parent(s) or guardian(s), in writing, specifying the amount of the overpayment, the factual basis for the assessment of the overpayment, and the specific provisions of the subsidy agreement, regulation, or law upon which the assessment is based.

(7) Maintenance Payment.

(A) Each adoption or guardianship subsidy may provide for a maintenance payment. The maintenance payment may be—

1. A continuous monthly payment for a sum certain through the termination of the agreement; or

2. A continuous monthly payment towards the child's care which periodically diminishes over a period of not longer than four (4) years at which time it ceases; or

3. A continuous monthly payment for a sum certain towards the child's care for a period of more than four (4) years; or

4. A monthly payment for a sum certain which is continued for a limited time after legal adoption, not exceeding four (4) years. This payment is to aid the adoptive parent(s) in integrating the care of the new child in their home.

(B) There shall be three (3) maintenance rates for subsidy agreements: standard rate, medical rate, and rate for Youth with Elevated Needs Level A.

1. The standard rate is the default rate and shall not exceed the standard foster care maintenance rate subject to appropriations. At the time of placement, no payment may exceed the maintenance rate paid if the child had remained in out-of-home care, even when used in combination with other benefits available to the child.

2. A child shall qualify to receive the medical foster care rate or Youth with Elevated Needs Level A rate only if the adoptive parent(s) or the legal guardians(s) and child meet the qualifications for the Youth with Elevated Needs regulations as set forth in rule 13 CSR 35-60.070.

3. In order to qualify for the medical foster care rate the adoptive parent(s) or guardian(s) must have the same qualifications as a licensed medical foster parent as set forth in rule 13 CSR 35-60.070.

(8) Request for Medical Rate or Youth with Elevated Needs Level A Rate.

(A) In accordance with the procedures set forth below, any adoptive parent(s) or guardian(s) may request an increase from the standard rate to the Medical or Youth with Elevated Needs Level A maintenance rate.

(B) The adoptive parent(s) or guardian(s) shall submit a written request to increase the rate. In the request, the adoptive parent(s) or guardian(s) shall specifically describe the medical condition or behavior of the child which the adoptive parent(s) or guardian(s) believe qualifies the child for the higher maintenance rate. The adoptive parent(s) or guardian(s) shall provide any and all information and documentation to the Children's Division necessary to process the request for the higher maintenance rate, including, but not limited to—

1. The names and full contact information and reports for all medical care providers for the child for all relevant times, including all physicians, hospitals, and clinics which have provided care, diagnosis, or treatment for the child;

2. The names and full contact information and reports for all mental and behavioral health care providers for the child for all relevant times, including all therapists, licensed clinical social workers, psychologists, hospitals, and clinics which have provided care, diagnosis, and treatment for the child; and

3. The names, addresses, and full contact information and reports for all schools and educational institutions which provided educational services and/or assessments for the child; and

4. The names, addresses, and full contact information and

reports for any other person who may have information necessary to assess the medical, behavioral, and/or developmental needs of the child.

5. The adoptive parent(s) or guardian(s) shall provide the Children's Division with any written authorizations to release information which the division determines is necessary and convenient to process the request.

6. The adoptive parent(s) or guardian(s) shall have the burden to establish by a preponderance of the evidence that the child meets the eligibility requirements of Medical Level or Youth with Elevated Needs Level A.

(C) In order to qualify as a Youth with Elevated Needs, the child must meet the same criteria as a child in alternative care as required in 13 CSR 35-60.070, and the adoptive parent(s) or guardian(s) shall meet the training requirements set forth in 13 CSR 35-60.070. However, if the adoptive parent(s) or guardian(s) reside out of state or were not licensed foster families with the Missouri Children's Division—

1. They shall have completed at least eighteen (18) hours of equivalent training specific to the needs of the adopted child which has been approved by the Children's Division;

2. The adoptive parent(s) or guardian(s) shall provide the Children's Division with the name and the address of the provider of the training program and a copy of the training curriculum;

3. Once the training has been approved, the division may reimburse the out-of-state adoptive parent(s) or guardian(s) for training up to ninety dollars (\$90) per hour if there is a charge. A receipt must be provided to the division by the adoptive parent(s) or guardian(s) prior to payment; and

4. The adoptive parent(s) or guardian(s) must provide documentation of successful completion of the program.

(D) Adoptive parent(s) or guardian(s) of children receiving the medical maintenance—In order to qualify to receive the medical maintenance rate, the adoptive parent(s) or guardian(s) shall receive individualized medical training provided by the child's health care provider or other provider and approved by the division to enable the adoptive parent(s) or guardian(s) to meet the specialized medical needs of the child.

1. The training shall be individualized to the child's specific health care needs.

2. The adoptive parent(s) or guardian(s) must provide documentation of successful completion of the program.

(E) Subsidy agreements or amendments to subsidy agreements which include maintenance payments at the medical or Youth with Elevated Needs Level A shall be written to be reviewed every two (2) years or to age eighteen (18) due to their condition being such that they are not expected to improve. The Children's Division shall fully review the needs of the child in cooperation with the adoptive parent(s) or guardian(s). The Children's Division shall review and consider any and all information that the adoptive parent(s) or guardian(s) may submit for review and shall request information from all professionals who have provided diagnostic care or treatment for the child. In the event that the child's needs are such that the child no longer qualifies as a Youth with Elevated Needs, the standard maintenance rate shall apply. However, the burden shall be on the Children's Division to establish by a preponderance of the evidence that there has been a substantial and continuing change in the medical or behavioral needs of the child such that the child no longer meets the criteria of a Youth with Elevated Needs. Nothing in this subsection shall apply to any adoption subsidy agreement entered before the effective date of this regulation without the consent of the adoptive parent(s) or guardian(s).

(F) At the time of placement, the amount paid is determined by information obtained from the adoptive parent(s) or guardian(s) as to what financial assistance they need to meet the needs of the child and the resources available to the child such as OASDI, VA, SSI, etc.

(9) Medical and Dental Care.

(A) A child eligible for adoption subsidy or guardianship subsidy shall be eligible to receive MO HealthNet benefits to the extent authorized by law.

(B) The Children's Division shall not pay for any services which are covered by the MO HealthNet program. Notwithstanding any provision of an adoption subsidy agreement, any services paid for by the MO HealthNet program shall constitute payment in full for those services, and the Children's Division shall not be responsible for or liable to pay for any amounts in excess of the amount paid by MO HealthNet. Services covered by MO HealthNet do not require special approval by the Children's Division in the service section of the agreement; however, nothing in this subsection shall be construed to supersede the requirements of the MO HealthNet program, and the requirements of the MO HealthNet program for preapproval of services shall apply for any services administered by the MO HealthNet program.

1. Adoptive parent(s) or guardian(s) are encouraged, but not required, to add their adopted child or ward to their private insurance. Payment for an insurance deductible as prescribed by their private health insurance plan is the responsibility of the adoptive parent(s) or guardian(s). If an adoptive parent(s) or guardian(s) has added the adopted child or ward to their private health insurance, they must use their private health insurance, if the child is covered in their policy, before using MO HealthNet. However, the adoptive parent(s) or guardian(s) must indicate to the provider that the child is also eligible for MO HealthNet coverage.

2. The Children's Division will not pay for any medical or dental services in whole or in part received from non-MO HealthNet providers without prior approval by signature of the director of the Children's Division to the subsidy amendment.

3. The Children's Division may agree to pay for orthodontic services through adoption or guardianship subsidy when the services are determined to be medically necessary by the MO HealthNet Division according to eligibility criteria of the MO HealthNet program, but only if a MO HealthNet provider is not located within one hundred (100) miles round-trip of the residence of the child. The Children's Division will not pay any amounts in excess of the MO HealthNet rates for orthodontic services under this section. The children's division will not be responsible for payment of orthodontic services without prior written approval of the division. The adoptive parent(s) or guardian(s) will be responsible for any costs for orthodontic care obtained prior to written approval from the division.

(10) Childcare.

(A) A subsidy agreement may include childcare services as a part of the basic subsidy package for children up to age thirteen (13) when both adoptive parent(s) or guardian(s) are working or going to school. Adoptive parent(s) or guardian(s) are required to utilize a licensed and contracted or registered child care provider. In unusual cases where the medical, behavioral, or developmental needs of the child are such that it is medically, behaviorally, or developmentally necessary for the child to receive child care beyond age thirteen (13), the division may grant an exception and authorize payment for child care through the adoption or guardianship subsidy agreement for children over age thirteen (13). The determination of medical, behavioral, or developmental necessity shall not be made before the child reaches the age of twelve (12) years. These requests will be considered on a case-by-case basis. The adoptive parent(s) or guardian(s) shall submit a written request to the division for continued child care. In the request, the adoptive parent(s) or guardian(s) shall describe the medical needs and/or behaviors of the child which the parent(s) or guardian(s) believe qualifies the child for the continued childcare. The adoptive parent(s) or guardian(s) shall provide any and all information and documentation the Children's Division may determine is necessary and convenient to process the request, including, but not limited to—

1. A statement from a physician or mental health professional explaining why childcare is medically, behaviorally, or developmentally necessary;

2. A statement regarding the adoptive parent's(s') or guardian's(s') inability to locate community programs to assist with supervision of the child;

3. A statement including the hours of care needed per day or week, and anticipated duration of care shall be included in these requests;

4. The names and full contact information for all medical care providers for the child for all relevant times, including all physicians, hospitals, and clinics which have provided care, diagnosis, and treatment for the child;

5. The names and full contact information for all mental and behavioral health care providers for the child for all relevant times, including all therapists, licensed clinical social workers, psychologists, hospitals, and clinics which have provided care, diagnosis, and treatment for the child;

6. The names, addresses, and full contact information for all schools and educational institutions which provided educational services and/or assessments for the child; and

7. The names, addresses, and full contact information for any other person who may have information necessary to assess the medical, behavioral, and/or developmental needs of the child.

(B) The adoptive parent(s) or guardian(s) shall provide the Children's Division with any written authorizations to release information which the Children's Division determines is necessary and convenient to process the request.

#### (11) Nonrecurring Adoption or Legal Guardianship Expenses.

(A) The Children's Division may include in an adoption or guardianship subsidy agreement a provision to pay reasonable non-recurring adoption or legal guardianship expenses. The expenses that the division will pay shall be listed specifically in the agreement. The division will not pay for any expenses which are not specifically provided for in the agreement. All receipts submitted for reimbursement must be submitted within one hundred eighty (180) days of service completion. Any nonrecurring adoption or guardianship expenses, including, but not limited to, attorney fees, court costs, and litigation expenses incurred by the adoptive parent(s) or guardian(s) in excess of the amount set forth in the agreement shall be the sole responsibility of the adoptive parent(s) or guardian(s). Nonrecurring adoption or legal guardianship expenses which may be covered are the following:

1. Nonrecurring placement-related expenses may be reimbursed up to one thousand dollars (\$1,000) and are limited to:

A. Pre-placement transportation: This expense is paid at the current customary rate established by the Children's Division for use of a personal automobile or the charge of air or ground transportation; and

B. Lodging and food: Reimbursed using division travel guidelines for both in-state and out-of-state travel.

2. Legal fees include attorney's fees, court costs, publication expenses, and Guardian Ad Litem (GAL) costs for the adoptive parent(s) or guardian(s) in adoption or the guardianship case filed in a court of competent jurisdiction.

A. Attorney's fees will be reimbursed at a rate not to exceed one hundred dollars (\$100) per hour to a maximum of one thousand five hundred dollars (\$1,500) in non-contested adoption cases and up to three thousand dollars (\$3,000) in a contested case. Legal fees for guardianship subsidies may be reimbursed up to one hundred dollars (\$100) per hour to a maximum of five hundred dollars (\$500) in non-contested guardianship cases and up to one thousand five hundred dollars (\$1,500) if the guardianship is contested.

B. The attorney's fees, court costs, and litigation expenses which the Children's Division may agree to cover under a subsidy agreement shall only include those fees, costs, and litigation expenses which are reasonably necessary to pay for the adoption count of the adoption petition. Nothing in this regulation shall be construed to require the division to pay for attorney's fees, costs, or litigation expenses related to the termination of parental rights or other por-

tions of any legal proceedings involving the child. Nothing in this regulation shall be construed to require the division to pay for the attorney's fees, litigation expenses, and court costs for any other person, including the natural or legal parent(s) to defend the petition for adoption or guardianship petition.

3. Private agency fee reimbursement up to three thousand five hundred dollars (\$3,500). Such costs may include the adoption study, including health and psychological examination, and supervision of the placement prior to adoption finalization.

4. Payment for nonrecurring expenses shall not include those paid for or provided through resources available to the adoptive parent(s) or guardian(s), court, or the agency facilitating the placement. Examples of these resources include—

A. A private agency waives the cost of the family assessment (home study) or the placement support services;

B. The adoptive parent(s) claimed the Missouri adoption tax credit for nonrecurring adoption expenses;

C. The adoptive parent(s) or guardian(s) has private insurance providing payment for certain services included in an adoption/guardianship; and

D. A service provider has waived the cost for the service.

(12) Additional Services—An adoption or guardianship subsidy agreement may include provisions for the Children's Division to provide the following:

(A) Intensive In-Home Services (IIS) may be offered to the adoptive parent(s) or guardian(s) who is in need of intervention that may reduce the risk of the child entering out-of-home care;

(B) Residential Care Services (All Levels) may be included in a subsidy agreement or added to the subsidy agreement through an amendment, but only if residential care is the least restrictive treatment setting and program appropriate to meet the child's needs. The amendment must be signed by the director of the Children's Division before residential services may begin and payment for such services is made.

#### 1. Residential Referral Process.

A. At any time, the adoptive parent(s) or guardian(s) may request residential services. The division may refer the case to an IIS provider. If the division determines that IIS is appropriate, the division may provide IIS rather than residential services.

B. Community resources are to be researched by the adoptive parent(s) or guardian(s), with the assistance of their division case-worker, and efforts documented, prior to making a residential treatment referral.

C. In the event that IIS is ineffective in remedying the situation and other community resources have not produced the necessary change in the family unit and/or adoptive parent(s) or guardian(s) are unwilling to utilize alternative resources to prevent placement in residential care, the adoptive parent(s) or guardian(s) must provide information necessary to evaluate the needs of the child to determine eligibility for placement in residential care.

D. The adoptive parent(s) or guardian(s) shall obtain the necessary documentation regarding the child's condition from appropriate professionals (psychological, psychiatric, etc.).

E. Efforts shall be made to place the child in close proximity to their home to allow involvement by the adoptive parent(s) or guardian(s) in the child's treatment.

F. The adoptive parent(s) or guardian(s) are responsible for making arrangements for actual placement into the residential facility.

G. Once a child has been approved for residential treatment, the adoptive parent(s) or guardian(s) shall be referred to the out-of-home care program. A Family Centered Services (FCS) case may be opened to provide services to work towards reintegration.

H. If the adoptive parent(s) or guardian(s) is unwilling to be a part of this process and has no desire for the child to be returned to their home, residential treatment may not be authorized through subsidy, and other permanency options shall be discussed with the

family. If the child enters the custody of the Children's Division, the division will pursue child support from the adoptive parent(s) or guardian(s).

2. The division will not pay for residential services at a more intensive treatment level and at a higher rate unless the director of the Children's Division agrees in writing to pay for the more intensive treatment level. To request approval to pay at a higher rate for a more intensive treatment level in the residential setting—

A. The adoptive parent(s) or guardian(s) shall submit a written request and state in detail the reasons that it is necessary for the child to be placed at a more intensive treatment level. The adoptive parent(s) or guardian(s) shall provide any and all documentation that the division may require to ascertain whether the more intensive treatment level is necessary; and

B. The documentation submitted must include current records and reports which must be no more than ninety (90) days old and include an estimated discharge date and prognosis, monthly treatment summary, why a continued need for residential treatment exists, and a description of parental involvement with the facility's treatment plan;

(C) Youth with Elevated Needs Level B—A child may be placed in a Youth with Elevated Needs Level B Home if this service is determined necessary for the child by the Children's Division. The Elevated Needs Level B Home is for the purpose of treating a child's behavioral issues so they may be successfully reintegrated into the adoptive or guardianship home.

1. The adoptive parent(s) or guardian(s) are to be referred to the out-of-home care program, a voluntary case is to be opened, and services are to be offered in order to work towards reintegration into the adoptive or guardianship home.

2. Youth with Elevated Needs Level B placements may be authorized for only six (6) months at a time. Upon the sixth month, the need for placement and level of care must be reviewed in a Family Support Team (FST) meeting.

3. An amendment requesting funding for Youth with Elevated Needs Level B placements shall be submitted to the division for approval. The amendment must be signed by the director of the Children's Division before Youth with Elevated Needs Level B services may begin and payment for such services made.

4. With regard to agency liability of an adopted or guardianship child voluntarily placed in a Youth with Elevated Needs Level B placement, any legally recognized parent (biological or adoptive parent(s) or guardian(s)) is liable for the actions of his/her child as long as that adoptive parent(s) or guardian(s) have not been relieved of legal custody. If the division does not have legal custody of a child, the division is not liable for the child;

(D) Respite: Adoptive parent(s) or guardian(s) may receive respite as a special service on a case-by-case basis through subsidy when a documented need exists to age eighteen (18). Respite care shall be provided according to any regulations promulgated by the division governing respite care.

1. The adoptive parent(s) or guardian(s) shall provide a letter requesting this service describing in detail the child's need for respite.

2. All paid receipts submitted for reimbursement must be submitted within one hundred eighty (180) days of the service being provided.

3. Respite shall be approved in accordance with maintenance approval; if a child receives traditional maintenance to age eighteen (18), respite may be approved to age eighteen (18) as well. If a child receives medical or Youth with Elevated Needs Level A maintenance to age eighteen (18) due to their condition being such that they are not expected to improve, respite may also be approved to age eighteen (18). However, if medical or Youth with Elevated Needs Level A maintenance is only approved for a two (2)-year time period, respite should only be approved for two (2) years; and

(E) If the child has a disabling condition as defined by the Americans with Disabilities Act, the Children's Division within its

discretion may include in an adoption or guardianship subsidy agreement a provision to pay for minor modifications of the residence of the child or vehicle used to transport the child under the following conditions:

1. It must be necessary for the child to effectively function in the home or vehicle;

2. The adoptive parent(s) or guardian(s) must be unable to acquire these services independent of the subsidy and have exhausted all available private and public community resources;

3. All expenses, modifications, and services shall be approved for payment pursuant to procurement laws and regulations including, but not limited to, 1 CSR 40-1.010 through 1 CSR 40-1.090; and

4. The division will pay for the least expensive, appropriate alternative to meet the needs of the child.

(13) 18+ Adoption Subsidy Agreement. The Children's Division may approve an adoption subsidy to continue beyond the age of eighteen (18) up to the age of twenty-one (21) when the child has an extraordinary documented physical, dental, or mental health need that requires care beyond the age of eighteen (18). These 18+ Adoption Subsidy Agreements are negotiated on an annual basis with the adoptive parent(s) according to the youth's current needs and with the intent of transitioning the youth from subsidy services to adult community services to ensure all necessary services are in place for the youth's success when subsidy is no longer available.

(A) Six (6) months prior to a youth covered by an adoption subsidy agreement's eighteenth birthday, the adoptive parent(s) may make a request in writing to the Children's Division for the division to assess whether or not the child is eligible for an 18+ adoption subsidy agreement. The division will make a determination as to whether or not the youth has an extraordinary documented physical, dental, or mental health need that requires care through a subsidy agreement beyond the age of eighteen (18). Documentation of need from the youth's physician, psychiatrist, psychologist, or dentist shall be obtained and submitted as supporting documentation of need.

(B) The adoptive parent(s) shall be made aware of the need to transition the youth from adoption subsidy to adult community services to meet the youth's needs and provide referral information and assistance with obtaining these services as needed. The adoptive parent(s) shall be advised they are required to apply for and participate in all such programs and services as may be reasonably necessary to meet the needs of the youth as indicated in the contract.

(C) The Children's Division will not approve an 18+ adoption subsidy agreement for any child whose mental, physical, or dental needs may be met or otherwise paid for or reasonably available at no cost or at reasonable cost through any other services and which the child or the adoptive parent(s) or guardian(s) may be eligible to receive on behalf of the child.

(14) Termination of an adoption or legal guardianship subsidy agreement shall take place if any of the following events occur:

(A) The child has attained the age of eighteen (18) and there is no 18+ adoption subsidy agreement or the maximum age of twenty-one (21) if there has been an 18+ agreement in effect; or

(B) The division determines that the adoptive parent(s) or guardian(s) are no longer legally responsible for support of the child; or

(C) The division determines that the adoptive parent(s) are no longer providing any support to the child; or

(D) The adoption subsidy agreement expires.

(15) Administrative and Judicial Review.

(A) Scope and Purpose. This establishes the procedures for the resolution of disputes involving the delay, denial, amount, or type of adoption or guardianship subsidy for applicants for or participants in the adoption and/or guardianship subsidy program.

(B) Notice of Case Action. The division shall provide a written notice of case action to an applicant or participant of any decision on

an application for subsidy and any decisions relating to an existing subsidy agreement to delay, deny, and/or modify the amount or type of the subsidy. The notice shall state the date of the decision and—

1. State generally the factual and legal basis for the division's action;
2. State the effective date of the action, if applicable; and
3. Notify the applicant or the subsidy participant of his or her right to administrative review. Attaching a copy of this regulation to the division's notice of case action shall be sufficient notice to comply with this subsection.

(C) Right to Administrative Review. Any person who believes that he or she is aggrieved by any delay in the adoption or guardianship subsidy process, or believes that he or she is aggrieved by the division's decision regarding the denial, amount, or type of adoption or guardianship subsidy program shall have the right to request administrative review following the procedures set forth in this regulation.

(D) Standard of Review and Burden of Proof. The decision shall be based on competent and substantial evidence on the whole record as in administrative hearings in contested cases. The preponderance of evidence standard shall apply. For initial applications and for requests for amendments to existing subsidy agreements, the burden of proof shall be on the applicant for subsidy or amendment to the subsidy agreement.

(E) Process for Administrative Review.

1. Requests for Administrative Review. A request for administrative review must be received by the division no later than thirty (30) days from the date of the division's decision. The request for administrative review shall be in writing and shall set out, generally, the reasons why the applicant or participant believes he or she is aggrieved by the decision. If there is a current adoption subsidy agreement in place, at the request of the adoptive parents, the division shall stay implementing its decision and keep the existing agreement in place until a final decision on the request for administrative review has been made. If the division's decision is finally affirmed, the division may seek reimbursement for any amounts overpaid to the adoptive parents pending the final decision.

2. First Level Review. Within thirty (30) days of the receipt of a request for administrative review, the division shall convene a panel of three (3) persons who are employees of the division, at least one (1) of whom is not responsible for the case management of, or the delivery of services to, either the child, the adoptive parent(s) or the prospective adoptive parent(s), guardian(s), or the prospective guardian(s). The panel shall review the request for administrative review, the materials submitted with the request, the division's file, and any written materials submitted by the division. At the request of the person seeking administrative review, the panel may convene an informal meeting which shall be open to participation by the applicant, the child, and/or the child's adoptive parents. The meeting shall be an informal settlement conference, the rules of evidence shall not apply, and no record of the meeting shall be kept. The panel may affirm, reverse, or modify the initial agency decision, or it may refer the case to a formal administrative hearing. If the person(s) requesting the hearing is not satisfied by the first level review, they may request in writing, within thirty (30) days of the decision of the panel, the referral of the case for an administrative hearing.

3. Administrative Hearing. In the event that the request for review is not resolved at the first level of review, the person requesting the review may request a hearing before a hearing officer of the Division of Legal Services of the Department of Social Services. The hearing shall be on the record and the rules of evidence shall apply as in administrative hearings in contested cases. The parties shall be afforded the right to adduce relevant evidence, to call witnesses, and to compel the attendance of witnesses by subpoena.

4. Hearing decision and right to judicial review. The hearing officer shall issue a written decision setting forth his or her findings of fact, conclusions of law, and decision after hearing, which shall be the final decision of the division. The written decision shall notify the parties of their right to request judicial review pursuant to section 536.100, RSMo.

*AUTHORITY: section 453.073, RSMo Supp. 2009, sections 210.506 and 453.074, RSMo 2000, and Young v. Children's Division, State of Missouri Department of Social Services, 284 S.W.3d 553 (Mo. 2009). Original rule filed March 1, 2010.*

*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 Department of Social Services, Children's Division, PO Box 88, Jefferson City, MO 65103. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## Title 13—DEPARTMENT OF SOCIAL SERVICES Division 35—Children's Division Chapter 60—Licensing of Foster Family Homes

### PROPOSED RULE

#### 13 CSR 35-60.070 Foster Care Services for Youth with Elevated Needs

*PURPOSE: This rule defines Foster Care Services for Youth with Elevated Needs.*

(1) Definitions for the purpose of this regulation:

(A) Family Support Team (FST)—The group of individuals assembled to participate in a Family Support Team Meeting, a meeting convened by the division or children's services provider on behalf of the family and/or child for the purpose of determining service and treatment needs, determining the need for placement and developing a plan for reunification or other permanency options, determining the appropriate placement of the child, evaluating case progress, and establishing and revising the case plan.

(B) Foster Youth with Elevated Needs—A program designed for youth with identifiable and documented moderate or serious emotional and/or behavior needs requiring intensive and individualized intervention to succeed in a community-based family setting and to achieve their goal of permanency. There are two (2) levels available to meet the child-specific needs: Level A and Level B.

(C) Psychiatric Hospital—A hospital which provides diagnostic and treatment services consistent with the needs of the child. This is the most restrictive placement option utilized by the Children's Division.

(D) Medical Foster Care—A licensed foster home utilized to meet the needs of a child with extraordinary medical needs. Medical foster parents shall have a foster parent license and receive training from qualified medical care providers specific to the unique medical needs of the child.

(E) Residential Care Facility—A facility providing twenty-four (24) hour care in a group setting to children who are unrelated to the person operating the facility and unattended by a parent or guardian.

(F) Traditional Foster Home—A private residence of one (1) or more family members providing twenty-four (24) hour care to one (1) or more, but less than seven (7), children who are unattended by parent or guardian and unrelated to either foster parent by blood, marriage, or adoption.

(G) Selection/Screening Team—A team constituted to evaluate a youth's appropriateness for a higher level placement. The composition of the team shall be determined by the Children's Division and shall take into consideration the type of expertise necessary to assess

the unique needs of the youth being assessed. The team shall include the following individuals: case manager, supervisor, and the circuit or regional specialist or designated facilitator.

(H) "Youth" or "Child"—A person within the state who is under the age of eighteen (18), or in the custody of the Children's Division to a maximum age of twenty-one (21).

(2) Process for Determining Youth with Elevated Needs.

(A) Children in need of foster care will be placed in the least restrictive setting in a traditional foster home. In the event that the child's condition or behaviors indicate that the child requires a higher level of care, the Children's Division will assess the youth's needs to determine which is the least restrictive, but most appropriate, placement to meet the needs of the particular youth based on available resources. The Children's Division may conduct an elevated needs assessment on the recommendation of the child's family support team, any member of the family support team, or at the written request of the child's resource provider.

(B) The selection/screening team will decide if the youth is an appropriate candidate for the program by considering the individual needs of the youth, the presenting behaviors of the youth, and the impact such behaviors have in the placement setting. Youth eligible for elevated needs should have more than one (1) presenting problem as listed in Presenting Problems Displayed By the Youth with Elevated Needs—Level A and Presenting Problems Displayed By the Youth with Elevated Needs—Level B sections of this regulation.

(C) Upon evaluation, the selection/screening team shall conclude—

1. That the youth is not appropriate for the program;
2. That the youth is appropriate, but a compatible home is not available in the county of origin or nearby counties; or
3. The youth is appropriate, and there is a compatible home.

(3) Characteristics of a Youth with Elevated Needs—Level A.

(A) Youth with Level A Elevated Needs require significantly greater structure and supervision and are significantly less able to assume responsibility for their daily care than youth in traditional foster care. These youth typically, but not always, have experienced multiple out-of-home placements. Youth appropriate for Level A fall into one (1) of two (2) categories:

1. Youth presently in a residential setting who may be moved to a less restrictive setting, but are not reasonably able to effectively function in a traditional foster home or in their parents' home; or
2. Youth who lack a viable placement in a traditional foster family home or in their family home because of their presenting problems would be placed in a residential setting unless an available Level A foster home can be found.

(4) Characteristics of a Youth with Elevated Needs—Level B.

(A) Youth with Level B Elevated Needs have significantly serious emotional and/or behavior problems that require the twenty-four (24) hour availability of a highly-skilled Level B resource parent. These youth—

1. Because of their presenting problems, would be placed in a level III or above residential treatment facility or psychiatric hospital; and
2. Have been discharged from a residential treatment facility or psychiatric hospital and are unable to function effectively in a traditional foster home.

(5) Presenting Problems Displayed By the Youth with Elevated Needs—Level A. Level A children have a documented history of presenting behaviors which render the child unable to effectively function outside of a highly structured setting. Examples of behaviors which the Children's Division may consider include, but are not limited to—

(A) Significant behaviors which, if not modified, could result in the youth being designated as a status offender/juvenile delinquent;

(B) History of irresponsible or inappropriate sexual behavior, which has resulted in the need for extraordinary supervision;

(C) Significant, extraordinary, threatening, intimidating, or destructive behavior which is demonstrated by multiple incidents over a period of time;

(D) Significant and extraordinary oppositional and/or defiant behaviors when dealing with authority figures which pose a significant risk to the health and safety of the child or to others;

(E) Significant and extraordinary problems with peer-to-peer interactions which pose a significant risk to the health and safety of the child and/or his or her peers;

(F) Significant and extraordinary behavioral and academic problems at school that affect academic achievement or social adjustment;

(G) Significant and extraordinary conduct problems with lying, stealing, or manipulating;

(H) Significant and extraordinary problems with his or her ability to control and/or appropriately express anger;

(I) Significant problems with the abuse of alcohol and controlled substances;

(J) Oppositional behavior which contribute to placement disruptions and the inability to function productively with peers, parent figures, birth family, etc.;

(K) Any of the above behaviors, coupled with medical problems; or

(L) Any of the above behaviors displayed by one (1) or more youth within a sibling group, qualifying the entire sibling group for placement together, if appropriate. However, not all of the youth within the sibling group would be eligible for the Level A maintenance rate.

(6) Presenting Problems Displayed By the Youth with Elevated Needs—Level B. Level B children have a documented history of presenting behaviors or diagnoses which render the child unable to effectively function outside of a highly structured setting. Examples of behaviors or diagnoses which the Children's Division may consider include, but are not limited to—

(A) History of suicide or currently having suicidal thoughts, statements, and/or gestures;

(B) Affective disorders;

(C) Attention Deficit Disorder;

(D) Post-Traumatic Stress Disorder;

(E) Eating disorder;

(F) Panic disorders;

(G) Fears/phobias;

(H) Obsessive/Compulsive Disorders;

(I) Oppositional Defiant Disorders;

(J) Depression/withdrawal;

(K) Dissociative behaviors, blank out, pass out, seizure;

(L) Anger/rage;

(M) History of fire setting;

(N) Destruction of property;

(O) Failure to form emotional attachments; and

(P) Multiple short-term placements.

(7) Youth Who May Not be Appropriate for Level A. Youth who may not be appropriate for Level A include, but are not limited to, the following:

(A) Children who may function successfully in a traditional foster home or adoptive or guardianship placement;

(B) Youth who qualify for Level B Elevated Needs;

(C) Children under the age of three (3) who cannot be treated effectively through the behavior modification treatment model;

(D) Youth who exhibit severe psychiatric behavior, as diagnosed by a psychiatrist/psychologist, such as an obvious lack of emotional contact, affect disturbances, and/or severe thought distortions;

(E) Youth with a recent history of extreme or dangerous physical aggression;

(F) Youth with a recent history of fire setting;

(G) Youth who have recently attempted suicide and continue to have suicidal ideations;

(H) Youth with an IQ score below sixty-five (65);

(I) Youth who are medically diagnosed as chemically dependent;

(J) Youth with severe medical or physical handicaps which present barriers that the child cannot or will not overcome;

(K) Youth whose primary presenting problem, as diagnosed by a psychiatrist/psychologist, is sexual addiction and who need extremely structured treatment and unusually close supervision; or

(L) Youth with personality disorders, as diagnosed by a psychiatrist/psychologist, who have severe problems forming attachments with caretakers and significant others.

(8) Youth Who May Not be Appropriate for Level B. Youth who may not be appropriate for Level B include, but are not limited to, the following:

(A) Children who may function successfully in a traditional foster home or adoptive or guardianship placement;

(B) Youth who qualify for Level A Elevated Needs;

(C) Actively suicidal;

(D) Homicidal;

(E) Compulsive fire setter;

(F) Sexual abuse offender which might endanger other family members;

(G) Require around-the-clock awake supervision;

(H) Unable to function in school, and alternative program (day treatment) is not available; and

(I) Youth who have demonstrated behaviors that pose a significant risk of harm to the youth or others which require professional treatment in a hospital or institutional or structured residential care setting.

(9) Working with Youth with Developmental Delays. Youth with developmental delays may, or may not, be appropriate for Level B Foster Care. Appropriateness for Level B Foster Care should be based on the Selection/Screening Team and/or the Family Support Team (FST) evaluation of all the circumstances surrounding that particular youth. Youth should not be ruled out for Level B based solely on the singular characteristic of an IQ score falling below sixty-five (65). Instead, the team should consider a variety of information including, but not limited to, the following:

(A) Youth's functioning level;

(B) Severity of developmental delays;

(C) Ability for self-care;

(D) Type of behavior problems;

(E) Level of physical aggressions;

(F) Age;

(G) Compliance; and

(H) Need for supervision.

(10) Level A Resource Provider Training Requirements. In order to qualify as a Level A resource provider, the resource provider shall complete all required hours of pre-service training in addition to successful completion of eighteen (18) hours of specialized training workshops from the following topics:

(A) Team and relationship building;

(B) Communication skills;

(C) Behavior management techniques;

(D) Discipline and punishment procedure;

(E) Management of behavior crisis situations;

(F) Development of an individual treatment plan;

(G) De-escalation skills;

(H) Negotiation;

(I) Positive reinforcement technique; or

(J) Professional skills for foster parents.

(11) Level B Resource Training Requirements. In order to qualify as a Level B resource provider, the resource provider shall complete all

required hours of pre-service training, complete eighteen (18) hours of Level A specialized training, and participate in the following nine (9) hours of specialized training and practicum designed specifically for Level B resource providers:

(A) Crisis Intervention—Two (2) hours;

(B) Behavior Management—Two (2) hours;

(C) Suicide Management—Two (2) hours;

(D) Medication Management—Two (2) hours; and

(E) Family Orientation—One (1) hour (training shall include how the severely emotionally disturbed or behavior disordered child may impact the resource provider's family).

(12) Reviews The Children's Division will conduct reviews to ensure that progress is being made toward permanency throughout the Level A or Level B placement. The division shall conduct reviews as often as the division determines is necessary to assess the needs of the child. However, the division shall convene the selection/screening team to assess the child's placement at least every one hundred-eighty (180) days. Children covered by an adoption subsidy or guardianship subsidy agreement will be reviewed at least every two (2) years. The division will seek a less restrictive setting once the youth's presenting problems have been replaced with appropriate coping behaviors. The decision to terminate the child's placement in a Level A or B setting shall be made solely by the Children's Division. In making the decision, the division shall consult with and consider the recommendation of the FST.

*AUTHORITY: section 453.073, RSMo Supp. 2009, sections 207.020, 210.506, and 453.074, RSMo 2000, and Young v. Children's Division, State of Missouri Department of Social Services, 284 S.W.3d 553 (Mo. 2009). Original rule filed Feb. 23, 2010.*

*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 Department of Social Services, Children's Division, PO Box 88, 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 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

### Division 2010—Missouri State Board of Accountancy Chapter 1—Organization and Description of Board

#### PROPOSED AMENDMENT

**20 CSR 2010-1.010 General Organization.** The board is proposing to amend sections (1), (7), and (8).

*PURPOSE: Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule. This amendment also clarifies that the meetings of the board shall be conducted in accordance with the latest version of Robert's Rules of Order.*



(1) The Missouri State Board of Accountancy is a unit of the Division of Professional Registration of the [Department of Economic Development] Department of Insurance, Financial Institutions and Professional Registration.

(7) The meetings of the board shall be conducted in accordance with the latest version of Robert's Rules of Order, so far as it is compatible with the laws of Missouri governing this board or the board's own resolutions as to its conduct.

(8) Any person may contact the Missouri State Board of Accountancy, PO Box 613, Jefferson City, MO 65102-0613, (573) 751-0012, or [www.pr.mo.gov/accountancy.asp](http://www.pr.mo.gov/accountancy.asp) for information and application forms or to register a complaint involving the public accounting profession as provided in [4 CSR 10-1.030] 20 CSR 2010-1.030.

*AUTHORITY:* sections 326.256, 326.259.4, 326.262, 326.268.1 and 326.319, RSMo Supp. [2005] 2009. This rule originally filed as 4 CSR 10-1.010. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.005 Definitions.** The board is proposing to amend section (5), add a new section (6), and renumber the remaining sections accordingly.

*PURPOSE:* This amendment updates the address of the American Institute of Certified Public Accountants and sets forth the definition of "office" pursuant to section 326.256, RSMo.

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

(5) Financial statement is a presentation of financial data, including accompanying notes, if any, intended to communicate an entity's economic resources and/or obligations at a point in time or the changes therein for a period of time, in accordance with generally accepted accounting principles or a comprehensive basis of accounting other

than generally accepted accounting principles. Incidental financial data to support recommendations to a client or in documents for which the reporting is governed by Statements on Standards for Attestation Engagements, which is incorporated by reference in this rule, and tax returns and supporting schedules do not, for this purpose, constitute financial statements. The statement, affidavit, or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer of such opinion. Statement on Standards of Attestation Engagement are documents included in the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct (October 31, 2009), which is incorporated by reference in this rule. A printed copy or copy on CD-Rom or other electronic copies of the Rules of Professional Conduct may also be obtained from the American Institute of Certified Public Accountants, [PO Box 2209, Jersey City, New Jersey 07303-2209] 220 Leigh Farm Road, Durham, NC 27707 or <http://www.aicpa.org>.

(6) Office means any place from which a Certified Public Accountant (CPA) or CPA firm, employee, agent, or designee practices or offers to practice public accounting.

[(6)](7) Practice of public accounting means:

(A) Performing or offering to perform for an enterprise, client, or potential client one (1) or more services involving the use of accounting or auditing skills or one (1) or more management advisory or consulting services or the preparation of tax returns or the furnishing of advice on tax matters by a person or firm using the title Certified Public Accountant, or "CPA", in signs, advertising, directory listings, business cards, letterheads, or other public representations, except that this shall not contradict section 326.292, RSMo;

(B) Signing or affixing one's own name, any trade or assumed name used by him or her, or a professional firm in his or her or its professional firm name, with any wording indicating he or she or the professional firm has expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract including, but not limited to, statutes, ordinances, rules, grants, loans, and appropriations, except that this shall not contradict section 326.292, RSMo;

(C) Offering to the public or to prospective clients to perform or actually performing on behalf of clients any professional services that involve or require an audit or examination of financial records leading to the expression of a written attestation or opinion concerning these records, except that this shall not contradict section 326.292, RSMo; or

(D) Maintaining an office for the transaction of business as a CPA firm.

[(7)](8) Professional services means any services including all services performed by a member while holding himself or herself out as a CPA.

[(8)](9) Resident of this state is an individual considered to be for the purposes of Chapter 326, RSMo, a resident of this state, provided:

(A) The individual maintains a permanent place of residence in Missouri and actually resides in Missouri;

(B) The individual is a full-time student at an accredited college or university in this state;

(C) The individual, who is a graduate from a Missouri college or university, and at the time of graduation had a Missouri address, shall be considered a resident of this state for six (6) months from the date of graduation;

(D) The individual is regularly employed full-time in this state; or

(E) The individual is a permanent resident of Missouri and is serving on active duty in the armed services, or the individual is a permanent resident of Missouri and is the spouse of an individual serving on active duty in the armed services. To satisfy the requirements

of this rule, employment in Missouri need not be in public accounting.

**[(9)](10)** A resident manager of an office is a CPA holding an active license to practice, issued under section 326.280, RSMo, and currently practicing public accounting, who has direct supervision of the office and who, in addition, oversees the planning, administration, direction, and review of the services being performed by that office.

**[(10)](11)** Accounting firm is a certified public accountant firm, a CPA firm, or firm, sole proprietorship, a corporation, a partnership, or any other form of organization issued a permit pursuant to section 326.289, RSMo.

**[(11)](12)** The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

**AUTHORITY:** sections 326.256, 326.262, and 326.268, RSMo Supp. [2005] 2009. This rule originally filed as 4 CSR 10-2.005. Original rule filed July 3, 1975, effective Aug. 25, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 23, 2010.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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 2010—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED AMENDMENT

**20 CSR 2010-2.022** [Provisional License to Practice and Practice Privilege] **Privilege to Practice.** The board is proposing to amend the title of the rule and the original purpose statement, amend section (1), add a new section (3), renumber the remaining sections accordingly, and add new sections (5) and (6).

**PURPOSE:** This amendment changes the title of the rule and adds language to better clarify “practice privilege.”

**PURPOSE:** This rule sets forth requirements for practice privilege of certified public accountants from other states who are not relocating to this state and whose accountancy statutes are substantially equivalent to Missouri, or certified public accountants whose individual qualifications meet the requirements to be considered substantially equivalent [and provisionally licensed in Missouri].

(1) An individual, whose principal place of business, **domicile, or residence** is not in this state, **shall be presumed to have practice privilege in this state and shall be required to conform to, and**

**comply with, Missouri statutes and rules so long as the individual [and]:**

(A) [Who h]Has a valid and unrestricted license to practice public accounting from any state whose licensing requirements are determined by the board to be substantially equivalent to the Missouri Accountancy Act; or

(B) [Who h]Has a valid and unrestricted license to practice public accounting from any state and whose individual qualifications are determined by the board or National Association of State Boards of Accountancy (NASBA) National Qualification Appraisal Service to be substantially equivalent to the licensure requirements of the Missouri Accountancy Act; or

(C) [Who h]Has a valid and unrestricted license to practice public accounting from any state, and has practiced as a licensed certified public accountant outside of this state, with experience of the type described in section 326.286.3, RSMo, for a minimum of four (4) years within the immediately preceding ten (10) years, provided that the applicant has a minimum of a bachelor’s degree from an accredited college or university and has passed the uniform certified public accountant examination[;].

[Shall be presumed to have qualifications substantially equivalent to this state’s requirements and shall have all the practice privileges of a licensee of this state, and by entering or practicing in this state will be considered a provisional licensee of this state.]

**(3) Individuals who have practice privilege in this state shall notify the board within thirty (30) days if they have violated any of the causes set forth in section 326.310.2, RSMo.**

**[(3)](4)** By entering and practicing public accounting in this state, in person, **by mail, telephone, or through electronic means [or in any other manner, the provisional], the licensee shall be [considered to have notified this state and shall be]** required to conform to, and comply with, Missouri statutes and rules.

**[(4) To provide compilation, review or attest services, a provisional licensee must do so through a firm holding a current permit to practice in this state.**

**(5) A provisional licensee shall be subject to the provisions of section 326.310, RSMo.]**

**(5) An individual with practice privilege who is providing attest services for a client with a home office in Missouri must do so through a firm holding a current permit to practice in this state.**

**(6) An individual with practice privilege may provide compilation or review services provided the licensee is associated with a firm holding a current permit to practice in this or any other state.**

**[(6)](7)** The lack of a Missouri license, provisional or otherwise, shall not prevent the board from having disciplinary authority over any individual practicing public accounting in Missouri.

**AUTHORITY:** sections 326.256.1(9), 326.283.1(1), and 326.286.3, RSMo Supp. [2005] 2009. This rule originally filed as 4 CSR 10-2.022. Emergency rule filed Nov. 15, 2001, effective Nov. 25, 2001, expired May 23, 2002. Original rule filed Nov. 15, 2001, effective June 30, 2002. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 23, 2010.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in

support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.041 Eligibility Requirements for the CPA Examination.** The board is proposing to amend subsections (3)(A) and (3)(B), add a new section (7), and renumber the remaining section accordingly.

*PURPOSE:* Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule. This amendment also clarifies that by allowing any applicant to sit for the examination should not create any presumption that the applicant is automatically fit for licensure.

(3) An applicant for the examination whose initial application to Missouri is postmarked on or after June 30, 1999, who meets the qualifications in section 326.280.1(1), (2), and (3), RSMo—

(A) Who sat for the examination in another jurisdiction prior to June 30, 1999, or whose original application for the examination was postmarked to the other jurisdiction prior to June 30, 1999, if he or she meets the standard in subsections (1)(A) and (2)(A) or (B) of this rule, then examination credit will be granted in accordance with the provisions of section 326.280, RSMo, and rule [4 CSR 10-2.140] **20 CSR 2010-2.140** just as though the candidate had been approved and had sat in Missouri and he or she will be approved to sit as a Missouri candidate; or

(B) Whose original application for the examination was postmarked to another jurisdiction on or after June 30, 1999, or, if the postmark date is not available, who first sat for the examination in the other jurisdiction after June 30, 1999, if he or she meets the standard in subsections (1)(B) and (2)(C) of this rule, then examination credit will be granted in accordance with the provisions of section 326.280, RSMo, and rule [4 CSR 10-2.140] **20 CSR 2010-2.140** just as though the candidate had been approved and had sat in Missouri and he or she will be approved to sit as a Missouri candidate.

**(7) The board, or its designee, may in its discretion allow any applicant to take the examination; however, approval to take the exam shall not create any presumption that the applicant is fit for licensure nor otherwise prohibit the board from exercising its discretion in considering an application for licensure as set forth in section 326.310, RSMo.**

[(7)](8) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

*AUTHORITY:* sections 326.262 [and], 326.280.1, and 326.310, RSMo Supp. [2005] 2009. This rule originally filed as 4 CSR 10-

2.041. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.051 Registration of Certified Public Accounting Firms.** The board is proposing to amend sections (4) and (10).

*PURPOSE:* This amendment clarifies the requirements for out-of-state certified public accounting firms who practice in Missouri.

(4) All out-of-state certified public accounting firms that practice public accounting in this state [must obtain a permit to practice. All partners, members, shareholders and employees of these firms, who practice in this state, must obtain a license or be a provisional licensee to practice under Chapter 326, RSMo. There must be at least one (1) active individual Missouri certified public accountant (CPA) licensee or Missouri CPA provisional licensee in the firm for the firm's permit to be considered active.] shall comply with Chapter 326, RSMo, and all other applicable Missouri statutes.

(10) In the event a firm through which the practicing CPAs are [provisionally] licensed, and there is no physical location for the firm within the state of Missouri, the firm shall complete the form for such practice as provided by the board and payment of all applicable fees as determined by the board. The firm permit shall only be valid for such time that the firm has an active provisional licensee in the state of Missouri. If the firm opens or operates a firm location within the state of Missouri, the firm is required to complete an initial firm permit application and pay all applicable fees as determined by the board.

*AUTHORITY:* sections 326.262 and 326.289, RSMo Supp. [2005] 2009. This rule originally filed as 4 CSR 10-2.051. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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,  
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**Division 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.061 Requirements for an Initial License to Practice.** The board is proposing to amend section (1).

*PURPOSE: Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule.*

(1) Applicants for initial licensure shall meet the education requirements outlined in [4 CSR 10-2.041] **20 CSR 2010-2.041** and successfully complete the examination requirements as outlined in [4 CSR 10-2.150] **20 CSR 2010-2.150**.

*AUTHORITY: sections 326.262 and 326.280, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-2.061. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 23, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.065 Requirements for Licensure through Reciprocity.** The board is proposing to amend subsections (1)(A)–(1)(D) and subsection (2)(C).

*PURPOSE: Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of*

*Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule.*

(1) The board may issue a license to applicants who have a current certificate or license in another state or have a current foreign certificate or license that is acceptable to the board, and shall meet the following conditions:

(A) Meets the eligibility requirements to sit for the Uniform Certified Public Accountant (CPA) examination as prescribed in [4 CSR 10-2.041] **20 CSR 2010-2.041**; [or]

(B) Has passed the Uniform CPA examination; [and]

(C) Has successfully completed a written examination in professional ethics acceptable to the board as prescribed in [4 CSR 10-2.061(6)] **20 CSR 2010-2.061(6)**; and

(D) Has met the experience requirements as prescribed in [4 CSR 10-2.061] **20 CSR 2010-2.061**.

(2) The board may issue a license to an out-of-state applicant who:

(C) Has successfully completed a written examination in professional ethics acceptable to the board as prescribed in [4 CSR 10-2.061(6)] **20 CSR 2010-2.061(6)**;

*AUTHORITY: section 326.262, RSMo Supp. [2005] 2009. Original rule filed April 3, 2006, effective Nov. 30, 2006. Amended: Filed Feb. 23, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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,  
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**Division 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.070 Renewal of Licenses.** The board is proposing to amend subsection (2)(J) and section (4).

*PURPOSE: This amendment clarifies intersectional references in section (2) and makes a language correction in section (4).*

(2) Each certified public accountant (CPA) shall provide the board with the following information at the time of application for renewal of his or her individual license to practice:

(J) Each licensee shall notify the board in writing within thirty (30) days of any change in subsections [(1)](2)(A) through [(1)](2)(I) above occurring during the licensing period.

(4) License renewal [applications] notifications will be mailed to each licensee at the last known address at least sixty (60) days before the license expiration date. Failure to receive this notice does not

relieve the licensee of the obligation biennially to renew the license to practice.

*AUTHORITY:* sections 326.262, 326.286, and 620.010.15(2), *RSMo Supp.* [2005] 2009. This rule originally filed as 4 CSR 10-2.070. Original rule filed Sept. 11, 1974, effective Sept. 21, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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,  
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REGISTRATION  
Division 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.072 Renewal of a Certified Public Accounting Firm Permit.** The board is proposing to amend section (3) and subsection (5)(B).

*PURPOSE:* Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule. This amendment also clarifies what is mailed for license renewals and clarifies requirements for renewal of certified public accounting firms.

(3) Permit renewal [applications] notifications will be mailed to each applicant at the last known address, provided to the board, at least sixty (60) days before the permit expiration date. Failure to receive this notice does not relieve the firm of the annual obligation to renew the permit to practice. Failure to renew timely may cause the board to assess additional penalties as provided in [4 CSR 10-2.160] **20 CSR 2010-2.160**.

(5) As a part of the annual renewal of each office established and maintained for the practice of public accounting or out of which a CPA practices or offers to practice public accounting, the sole practitioner or partner, president, or managing officer of a certified public accounting firm[,] shall affirm that:

(B) All of his or her employees, its resident partners, its members and managers, or shareholders in Missouri, or any combination of these, who hold a CPA license issued by another state have applied for a Missouri CPA license by reciprocity or [by provisional license] are granted practice privilege through substantial equivalency.

*AUTHORITY:* sections 326.262 and 326.289, *RSMo Supp.* [2005] 2009. This rule originally filed as 4 CSR 10-2.072. Original rule

filed April 5, 2004, effective July 30, 2004. Moved to 20 CSR 2010-2.072, effective Aug. 28, 2006. Amended: Filed April 3, 2006, effective Nov. 30, 2006. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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,  
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Division 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules  
PROPOSED AMENDMENT**

**20 CSR 2010-2.075 Reinstatement of License to Practice.** The board is proposing to amend sections (3) and (4).

*PURPOSE:* Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule. In addition, this amendment sets forth the time allowed to obtain the required continuing professional education and corrects a technical error.

(3) Continuing education courses required under sections (1) and (2) of this rule shall comply with the provisions of the current continuing education requirements as set forth in [4 CSR 10-4.010] **20 CSR 2010-4.010** to [4 CSR 10-4.041] **20 CSR 2010-4.041**. The forty (40) hours required in subsections (1)(A) and (B) above shall include a minimum of two (2) hours taken in the area of ethics.

(4) An applicant for reinstatement who has been practicing public accounting in Missouri without a license shall not be reinstated until he or she pays all required fees and penalties, which he or she has not paid previously, and fulfills the continuing professional education requirement or agrees to obtain the required hours of [containing] continuing professional education within [one (1) year] **sixty (60) days** of reinstatement, for any periods during which he or she was practicing public accounting in Missouri.

*AUTHORITY:* sections 326.262, 326.286, 326.310, [and] 326.316, [RSMo Supp. 2005] and [620.149] **324.038**, *RSMo* [2000] *Supp.* 2009. This rule originally filed as 4 CSR 10-2.075. Original rule filed June 13, 1984, effective Oct. 11, 1984. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.095 Ownership of CPA Firms.** The board is proposing to amend paragraphs (1)(A)1., (2)(A)1., and (3)(A)1. and subsection (4)(A).

*PURPOSE:* This amendment specifies all ownerships shall comply with section 326.289, RSMo, and all other provisions of Chapter 326, RSMo, and the board's rules.

(1) Limited Liability Companies (L.L.C.).

(A) Ownership. Only the following may have a member's interest in a L.L.C.:

1. A majority ownership shall consist of natural persons who hold a license as a certified public accountant (CPA) to practice public accounting issued by this state, another state, or territory of the United States or the District of Columbia, or any state, country, or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent if the other state or country or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities[;]. **All ownership shall comply with section 326.289, RSMo, and all other provisions of Chapter 326, RSMo, and the board's rules;**

2. Domestic or foreign general partnerships, including limited liability partnerships, in which all of the partners who have a majority of ownership hold an active license as a CPA to practice public accounting issued by this state, another state, or territory of the United States, the District of Columbia, or any other country or state or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;

3. Professional corporations holding a permit to practice public accounting issued by this state or foreign professional corporations authorized by law in this state to practice public accounting. All shareholders of either a domestic or foreign professional corporation shall own their shares in their own right and shall be the beneficial owners of the equity capital ascribed to them;

4. Limited liability companies (L.L.C.) holding a permit to practice public accounting issued by this state or foreign L.L.C. authorized by law in this state to practice public accounting, provided that all non-CPA members are active individual participants in the firm or affiliated entities. All members of either a domestic or foreign L.L.C. shall own their member's interest in their own right; and

5. Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a license as a CPA to practice public accounting issued by this state, another state, or territory of the United States or District of Columbia, provided that

the trustee is also the [settler] settlor and beneficiary of the trust during his or her lifetime. If there are multiple trustees, a majority shall hold a license as a CPA to practice public accounting issued by this state, another state, or territory of the United States or the District of Columbia. Any trustees who are not licensed CPAs shall be active individual participants in the firm.

(2) Professional Corporations.

(A) Ownership. A professional corporation may issue shares only to the following:

1. Natural persons who hold a current license as a CPA to practice public accounting issued by this state, another state, or territory of the United States or the District of Columbia, or any other country or state or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of a CPA license issued by this state[;]. **All ownership shall comply with section 326.289, RSMo, and all other provisions of Chapter 326, RSMo, and the board's rules;**

2. Domestic or foreign general partnerships, including limited liability partnerships, in which all of the partners hold a current license as a CPA to practice public accounting issued by this state, another state, or territory of the United States, the District of Columbia, or any other country or state or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of CPA [L]/licenses issued by this state;

3. Professional corporations holding a permit to practice issued by this state or foreign professional corporations authorized by law in this state to practice public accounting. Shareholders at all times shall own their own shares in their own right and shall be the beneficial owners of the equity capital ascribed to them;

4. Limited liability companies (L.L.C.) holding a permit to practice public accounting issued by this state or foreign L.L.C. authorized by law in this state to practice public accounting. All members of either a domestic or foreign L.L.C. shall own their member's interest in their own right; and

5. Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a current license as a CPA to practice public accounting issued by this state, another state, or territory of the United States or District of Columbia, provided that the trustee is also the [settler] settlor and beneficiary of the trust during his or her lifetime. If there are multiple trustees, each shall hold a license to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia.

(3) Partnerships and Limited Liability Partnerships (L.L.P.).

(A) Ownership. A partnership or L.L.P. may issue ownership interest only to the following:

1. A majority ownership shall consist of natural persons who hold a license as a CPA to practice public accounting issued by this state, another state, or territory of the United States or the District of Columbia, or any state, country, or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of CPA licenses by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities[;]. **All ownership shall comply with section 326.289, RSMo, and all other provisions of Chapter 326, RSMo, and the board's rules;**

2. Domestic or foreign general partnerships, including limited liability partnerships, in which all the partners who have a majority ownership hold an active license as a CPA to practice public accounting issued by this state, another state, or territory of the United States, the District of Columbia, or any other country or state or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or

province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;

3. Professional corporations holding a permit to practice issued by this state or foreign professional corporations authorized by law in this state to practice public accounting. Shareholders of either a domestic or foreign professional corporation shall own their own shares in their own right and shall be the beneficial owners of the equity capital ascribed to them;

4. Limited liability companies (L.L.C.) holding a permit to practice public accounting issued by this state or foreign L.L.C. authorized by law in this state to practice public accounting, provided that all non-CPA members are active individual participants in the firm or affiliated entities. All members of either a domestic or foreign L.L.C. shall own their member's interest in their own right; and

5. Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a license as a CPA to practice public accounting issued by this state, another state, or territory of the United States or District of Columbia, provided that the trustee is also the [settler] settlor and beneficiary of the trust during his or her lifetime. If there are multiple trustees, a majority shall hold a license as a CPA to practice accounting issued by this state, another state or territory of the United States or the District of Columbia. Any trustees who are not licensed CPAs shall be active individual participants in the firm.

(4) Sole Proprietorships.

(A) The ownership of a sole proprietorship shall consist of a natural person who holds a license as a CPA to practice public accounting issued by this state, another state, or territory of the United States or the District of Columbia, or any state, country, or province of another country if the other state or country or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. **All ownership shall comply with section 326.289, RSMo, and all other provisions of Chapter 326, RSMo, and the board's rules.**

*AUTHORITY: sections 326.262, 326.280 and 326.289, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-2.095. Original rule filed Aug. 31, 2000, effective Feb. 28, 2001. Amended: Filed April 5, 2004, effective July 30, 2004. Moved to 20 CSR 2010-2.095, effective Aug. 28, 2006. Amended: Filed Feb. 23, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.130 Applications for Examination.** The board is proposing to amend section (6).

*PURPOSE: Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule.*

(6) Applicants who are applying for examination under the provisions of section 326.280, RSMo, and who expect to satisfy the educational requirements within sixty (60) days after the examination also must submit a certificate of enrollment as required by [4 CSR 10-2.135] **20 CSR 2010-2.135**. The applicant is responsible for insuring that the certificate of enrollment is received by CPAES at least thirty (30) days before the date of the examination or the application will be considered incomplete.

*AUTHORITY: sections 326.262, 326.268, and 326.286, RSMo Supp. [2005] 2009. This rule originally filed as 4 CSR 10-2.130. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 23, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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,  
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**Division 2010—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2010-2.150 Examination Procedures.** The board is proposing to amend section (1).

*PURPOSE: Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule.*

(1) After a candidate has submitted an application pursuant to [4 CSR 10-2.130] **20 CSR 2010-2.130** and eligibility to take the examination is determined as prescribed in [4 CSR 10-2.041] **20 CSR 2010-2.041**, an Authorization To Test (ATT) will be sent to the National Candidate Database (NCD), and a Notice To Schedule (NTS) will be issued to the applicant (now known as a candidate). These notices will be issued by the National Association of State Boards of Accountancy (NASBA), examinations department (CPAES).

*AUTHORITY: sections 326.262, 326.268, 326.280, and 326.286, RSMo Supp. [2005] 2009. This rule originally filed as 4 CSR 10-2.150. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979.*



For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 23, 2010.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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 2010—Missouri State Board of Accountancy  
Chapter 3—Professional Ethics—Rules of Conduct**

**PROPOSED AMENDMENT**

**20 CSR 2010-3.010 General Purpose of Ethics Rules.** The board is proposing to amend section (1).

**PURPOSE:** This amendment updates the address of the American Institute of Certified Public Accountants to reflect their current address.

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

(1) A licensee shall comply with the professional standards of the most current American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct, including the most current AICPA Interpretations of the Code of Professional Standards. Said standards are incorporated by reference in this rule. A printed copy or copy on CD-Rom, or other electronic copy of the Code of Professional Conduct (**October 31, 2009**) may also be obtained from the American Institute of Certified Public Accountants, [PO Box 2209, Jersey City, New Jersey 07303-2209] **220 Leigh Farm Road, Durham, NC 27707** or <http://www.aicpa.org>. **This rule does not incorporate any subsequent amendments or additions.** The licensee shall also comply with the requirements of any state, territory, federal agency, or country, which may regulate professional responsibilities of accountants. In the event of a conflict between the AICPA Code of Professional Conduct and the Missouri statute or rules, the Missouri statute or rules shall prevail.

**AUTHORITY:** section 326.271, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-3.010. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed April 5, 2004, effective July 30, 2004. Moved to 20 CSR 2010-3.010, effective Aug. 28, 2006. Amended: Filed Feb. 23, 2010.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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 2010—Missouri State Board of Accountancy  
Chapter 3—Professional Ethics—Rules of Conduct**

**PROPOSED AMENDMENT**

**20 CSR 2010-3.060 Other Responsibilities and Practices.** The board is proposing to amend section (11).

**PURPOSE:** This amendment adds clarifying language to section (11).

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

(11) A licensee shall comply with any accounting record retention requirements in the professional standards of the most current American Institute of Certified Public Accountants (AICPA), **220 Leigh Farm Road, Durham, NC 27707** or <http://www.aicpa.org>, Code of Professional Conduct (**October 31, 2009**), which is incorporated by reference in this rule, and any other governmental or regulatory agency, which may regulate client business or use the licensee's report to evaluate the client's compliance with applicable laws and related regulations. **This rule does not incorporate any subsequent amendments or additions.** However, documentation or working papers required by professional standards for attest services, for present or former clients, shall be maintained in paper or electronic format by a licensee or permit holder for a period of not less than four (4) years from the date of any report issued in connection with the attest service. Failure to maintain such documentation or working papers may be deemed an admission that they do not comply with professional standards.

**AUTHORITY:** sections 326.271, 326.280, and 326.289, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-3.060. Original rule filed July 3, 1975, effective Aug. 25, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 23, 2010.

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



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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 2010—Missouri State Board of Accountancy  
Chapter 4—Continuing Education Requirements**

**PROPOSED AMENDMENT**

**20 CSR 2010-4.010 Effective Dates and Basic Requirements.** The board is proposing to amend subsection (1)(A), delete subsection (1)(B), add new subsections (1)(B) and (1)(C), and renumber the remaining subsections accordingly.

*PURPOSE: Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule. Additionally, text concerning the continuing professional education statement has been added to the rule.*

(1) The following requirements of continuing professional education apply to the renewal of licenses pursuant to section 326.286, RSMo:

(A) An applicant seeking renewal of a license shall have completed no less than one hundred twenty (120) hours of continuing professional education, complying with these rules during the three (3)-year period preceding renewal. Commencing on January 1, 2004, a minimum of twenty (20) hours of continuing professional education (CPE) is required in each calendar year. Also commencing on January 1, 2004, a minimum of two (2) hours of the required twenty (20) hours per calendar year of CPE shall be in the area of ethics. An applicant seeking renewal of a license shall demonstrate participation in a program of learning meeting the standards set forth in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by National Association of State Boards of Accountancy (NASBA) and American Institute of Certified Public Accountants (AICPA) as provided in [4 CSR 10-4.020] **20 CSR 2010-4.020**, or such other standards acceptable to the board;

*[(B) An applicant whose license has lapsed shall have completed no less than one hundred twenty (120) hours of CPE complying with these rules during a three (3)-year period preceding the date of reapplication; or who agrees to obtain the one hundred twenty (120) hours of CPE within one (1) year of applying for reinstatement. The applicant shall provide to the board, upon request, copies of CPE documentation verifying compliance with this requirement;]*

(B) An applicant seeking reinstatement of their license, and who has not been practicing public accounting, shall submit evidence to the board that he or she has completed forty (40) hours of continuing professional education (CPE) during the twelve (12) months previous to making application for reinstatement of the license;

(C) The applicant agrees to obtain forty (40) hours of continuing professional education within sixty (60) days of applying for reinstatement;

*[(C)](D) A nonresident licensee seeking renewal of a license in this state shall be determined to have met the CPE requirement of this rule by meeting the CPE requirements for renewal of a license in the state in which the licensee's principal office is located;*

*[(D)](E) Nonresident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the licensee's principal office is located by attesting on an application provided by the board; and*

*[(E)](F) If a nonresident licensee's principal office state has no CPE requirements for renewal of a license, the nonresident licensee must comply with all CPE requirements for renewal of a license in this state.*

*AUTHORITY: section 326.271, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-4.010. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 23, 2010.*

*PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately six hundred thirty-two dollars and sixty-seven cents (\$632.67) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed amendment will save private entities approximately one thousand dollars to eight thousand dollars (\$1,000-\$8,000) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 ENTITY FISCAL NOTE

## I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration  
 Division 2010 - Missouri State Board of Accountancy  
 Chapter 4 - Continuing Education Requirements  
 Proposed Amendment - 20 CSR 2010-4.010 Effective Dates and Basic Requirements  
 Prepared September 10, 2009 by the Division of Professional Registration

## II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance
Missouri State Board of Accountancy	\$632.67
<b>Total Biennial Cost of Compliance for the Life of the Rule</b>	
	<b>\$632.67</b>

## III. WORKSHEET

The Account Clerk II reviews each application received for completeness, prepares and sends follow up correspondence to the applicant and audits/tracks continuing professional education units/hours to ensure the requirements are met.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Account Clerk II	\$24,576	\$36,591.21	\$17.59	\$0.29	30 minutes	\$8.80	\$580.53
<b>Total Personal Services Cost</b>							<b>\$580.53</b>

## Expense and Equipment Dollars

Item	Cost Per Item	Number of Items	Total
Letterhead	\$0.20	66	\$13.20
Envelopes	\$0.15	66	\$9.90
Postage	\$0.44	66	\$29.04
<b>Total Expense and Equipment</b>			<b>\$52.14</b>

## IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the office, which includes personal service, expense and equipment and transfers.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: Estimated number of reviews are based on FY 07 and 08 actuals.

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration**  
**Division 2010 - Missouri State Board of Accountancy**  
**Chapter 4 - Continuing Education Requirements**  
**Proposed Amendment - 20 CSR 2010-4.010 Effective Dates and Basic Requirements**  
 Prepared September 10, 2009 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
66	Applicants for Reinstatement Seeking Continuing Professional Education (CPE) (40 hours of CPE @ \$25-\$200 per hour)	\$1,000 - \$8,000
	<b>Estimated Biennial Savings for the Life of the Rule</b>	<b>\$1,000 - \$8,000</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. Estimated number of affected entities is based on FY 07 and 08 actuals.
2. In calculating the lodging and meal expenses, the board would utilize the federal General Services Administration (GSA) per diem rates for destinations within the Continental United States (CONUS). Additional travel costs would include mileage to and from the seminar and would vary based on where the licensee lives, therefore it was not calculated in this fiscal note.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

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

**Division 2010—Missouri State Board of Accountancy  
Chapter 4—Continuing Education Requirements**

**PROPOSED AMENDMENT**

**20 CSR 2010-4.031 Continuing Professional Education (CPE)  
Documentation.** The board is proposing to amend subsection (1)(B).

*PURPOSE:* This amendment clarifies that failure to comply with Continuing Professional Education requirements is a basis for disciplinary action.

(1) Continuing Professional Education Records.

(B) The board may verify information submitted by applicants for licensure. In cases where the board determines that the requirement is not met, the board may grant an additional period of time in which the deficiencies can be cured. *[Fraudulent] Failure to comply with CPE requirements and/or fraudulent reporting of CPE is basis for disciplinary action.*

*AUTHORITY:* sections 326.271 and 326.310, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-4.031. Original rule filed April 5, 2004, effective July 30, 2004. Moved to 20 CSR 2010-4.031, effective Aug. 28, 2006. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 2010—Missouri State Board of Accountancy  
Chapter 4—Continuing Education Requirements**

**PROPOSED RULE**

**20 CSR 2010-4.035 Inactive Licenses**

*PURPOSE:* This rule sets forth the requirements and restrictions for an inactive license.

(1) Inactive License. A licensee who received a license after August 28, 2001, and who is not practicing public accounting in any setting may be granted an inactive license. An inactive licensee shall place the word "inactive," "retired," or "ret." in association with their certified public accountant title. The inactive licensee shall not perform or offer to perform for the public any public accounting services or professional services, including attest, review, or compilation services or any management advisory, financial advisory, or consulting services or the preparation of tax returns, the furnishing of advice on tax, or any other accounting matters.

(2) The inactive licensee may return to active status by applying for reinstatement of license as defined in 20 CSR 2010-2.075.

*AUTHORITY:* sections 326.262 and 326.286.6, RSMo Supp. 2009. Original rule filed Feb. 23, 2010.

*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 Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 2010—Missouri State Board of Accountancy  
Chapter 4—Continuing Education Requirements**

**PROPOSED AMENDMENT**

**20 CSR 2010-4.041 Continuing Professional Education (CPE)  
Exceptions and Waivers.** The board is proposing to amend subsections (1)(A) and (1)(B).

*PURPOSE:* Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule. This amendment also clarifies that the "inactive" exception is granted at the board's discretion.

(1) Exceptions.

(A) A licensee who received a license after August 28, 2001, and who is not practicing public accounting in any setting may be granted an inactive license **at the discretion of the board** and be exempted from the continuing professional education (CPE) requirement by the board. *[The inactive licensee shall place the word "inactive," "retired," or "ret." in association with their certified public accountant title. The inactive licensee may return to active status upon showing evidence that they have completed no less than one hundred twenty (120) hours of CPE during the three (3)-year period preceding the request for reactivation; or agrees in writing to meet the requirement within one (1) year of applying for reactivation.]*

(B) The board may in particular cases make exceptions to the requirements set out in [4 CSR 10-4.010] **20 CSR 2010-4.010** for reasons of individual hardship including health, military service, foreign residence, or other good cause.

*AUTHORITY:* section 326.271, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-4.041. Original rule filed April 5, 2004, effective July 30, 2004. Moved to 20 CSR 2010-4.041, effective Aug. 28, 2006. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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 2010—Missouri State Board of Accountancy  
Chapter 5—Peer Review**

**PROPOSED AMENDMENT**

**20 CSR 2010-5.070 Peer Review Standards.** The board is proposing to amend section (1).

*PURPOSE:* This amendment updates the address for the American Institute of Certified Public Accountants to reflect their current address.

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

(1) The Missouri State Board of Accountancy (the board) specifies that the "Standards for Performing and Reporting on Peer Reviews," as promulgated by the American Institute of Certified Public Accountants (AICPA), which is incorporated by reference in this rule, or such other standards which are adopted, accepted, or recognized by the AICPA as meeting or exceeding the AICPA standards, shall satisfy the requirements of section 326.289.9, RSMo. A printed copy or copy on CD-Rom, of the "Standards for Performing and Reporting on Peer Reviews[, ] (October 31, 2009)" may also be obtained from the American Institute of Certified Public Accountants, [PO Box 2209, Jersey City, NJ 07303-2209] 220 Leigh Farm Road, Durham, NC 27707 or <http://www.aicpa.org>. **This rule does not incorporate any subsequent amendments or additions.**

*AUTHORITY:* sections 326.271 and 326.289.9, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-5.070. Original rule filed Nov. 3, 2003, effective June 30, 2004. Moved to 20 CSR 2010-5.070, effective Aug. 28, 2006. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at [mosba@pr.mo.gov](mailto:mosba@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 2010—Missouri State Board of Accountancy  
Chapter 5—Peer Review**

**PROPOSED AMENDMENT**

**20 CSR 2010-5.080 Firms Subject to Peer Review Requirements.** The board is proposing to amend sections (1), (2), and (3).

*PURPOSE:* Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule.

(1) As of January 1, 2004, any firm seeking renewal of its permit to practice public accounting, and which has been engaged to perform more than two (2) attest services in any calendar year, shall enroll in the Missouri Society of Certified Public Accountants (MSCPA) peer review administration program, or an approved peer review program as prescribed in [4 CSR 10-5.070] 20 CSR 2010-5.070. The firm must enroll in an approved peer review program within ninety (90) days after entering into an engagement for the third attest service in any calendar year. The firm shall be required to verify, on the application to renew an office, that it is enrolled in an approved peer review program.

(2) As of January 1, 2004, any out-of-state firm with a Missouri permit, that is not enrolled in a peer review program that satisfies the requirements of this chapter, and which has been engaged to perform more than two (2) attest services in any calendar year, shall enroll in the MSCPA peer review administration program, or an approved peer review program as prescribed in [4 CSR 10-5.070] 20 CSR 2010-5.070. The firm must enroll in an approved peer review program within ninety (90) days after entering into an engagement for the third attest service in any calendar year. The firm shall be required to verify, on the application to renew an office, that it is enrolled in an approved peer review program.

(3) As of January 1, 2008, any firm seeking renewal of its permit to practice public accounting, and which has performed one (1) or more attest engagements, reviews, or compilations, in any calendar year, shall enroll in the MSCPA peer review administration program, or an approved peer review program as prescribed in [4 CSR 10-5.070] 20 CSR 2010-5.070. The firm must enroll in an approved peer review program within ninety (90) days after entering into an engagement for its first attest, review, or compilation service. The firm shall be required to verify, on the application to renew an office, that it is enrolled in an approved peer review program.

*AUTHORITY:* sections 326.271 and 326.289.9, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-5.080. Original rule filed Nov. 3, 2003, effective June 30, 2004. Moved to 20 CSR 2010-5.080, effective Aug. 28, 2006. Amended: Filed Feb. 23, 2010.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 2010—Missouri State Board of Accountancy  
Chapter 5—Peer Review**

**PROPOSED AMENDMENT**

**20 CSR 2010-5.090 Peer Review Requirements for Renewal of a Firm Permit.** The board is proposing to amend sections (1) through (5).

*PURPOSE: Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule.*

(1) Any certified public accounting firm (“firm”) required to have a current permit issued pursuant to Chapter 326, RSMo, shall be enrolled in an approved peer review program as prescribed in [4 CSR 10-5.070] **20 CSR 2010-5.080**.

(2) The firm shall verify that any member of the firm who is responsible for supervising attest or review services, or who signs, or authorizes someone to sign, the firm’s report on attest or review engagements on behalf of the firm, has met the competency requirements as prescribed in [4 CSR 10-2.061] **20 CSR 2010-2.061**.

(3) For firms with multiple offices, the resident manager of each office located in the state of Missouri shall verify that the office follows the same quality control policies and procedures established by the firm that has been subjected to the peer review process. The resident manager of each office shall verify that any member of the firm who is responsible for supervising attest or review services, or who signs, or authorizes someone to sign, the firm’s report on attest or review engagements on behalf of the firm, has met the competency requirements as prescribed in [4 CSR 10-2.061] **20 CSR 2010-2.061**. The verification from the resident manager shall be provided to the Peer Review Oversight Board (PROB) at least one hundred twenty (120) days prior to the date of the firm’s annual renewal.

(4) For firms that are enrolled in an approved peer review program in another state to be eligible for the renewal of the firm permit, the resident manager of each office located in Missouri shall verify that the office follows the same quality control policies and procedures established by the firm that has been subjected to the peer review process in the other state. The resident manager of each office shall verify that any member of the firm who is responsible for supervising attest or review services, or who signs, or authorizes someone to sign, the firm’s report on attest or review engagements on behalf of the firm, has met the competency requirements as prescribed in [4 CSR 10-2.061] **20 CSR 2010-2.061**. The verification from the resident manager shall be provided to the PROB at least one hundred twenty (120) days prior to the date of the firm’s annual renewal.

(5) Firms that are enrolled in an approved peer review program and are providing services in the state of Missouri, but not through an

office located in Missouri, shall verify that the out-of-state office(s), through which the services are being provided, follows the same quality control policies and procedures established by the firm that has been subjected to the peer review process in the other state. The resident manager of each office shall verify that any member of the firm who is responsible for supervising attest or review services, or signs, or authorizes someone to sign, the firm’s report on attest or review engagements on behalf of the firm, has met the competency requirements as prescribed in [4 CSR 10-2.061] **20 CSR 2010-2.061**. The verification from the resident manager of such office(s) shall be provided to the PROB at least one hundred twenty (120) days prior to the date of the firm’s annual renewal.

*AUTHORITY: sections 326.271 and 326.289.9, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-5.090. Original rule filed Nov. 3, 2003, effective June 30, 2004. Moved to 20 CSR 10-5.090, effective Aug. 28, 2006. Amended: Filed Feb. 23, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 2010—Missouri State Board of Accountancy  
Chapter 5—Peer Review**

**PROPOSED AMENDMENT**

**20 CSR 2010-5.100 Administration.** The board is proposing to amend sections (2) through (4).

*PURPOSE: Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule.*

(2) Upon request, from the Peer Review Oversight Board (PROB), the administrator shall provide a list containing the names of firms enrolled in, or terminated from, the peer review program. The list shall also include the firm names and addresses, the period covered by their most recently accepted peer review, and the date of that peer review. The PROB, as defined in [4 CSR 10-5.110] **20 CSR 2010-5.110**, may require additional information, or documentation, or individual peer reviews, or may review procedures, if they deem it necessary to ascertain the effectiveness of a peer review program that has been accepted by the PROB.

(3) Annually by June 1, the PROB shall provide the board a list of firms that are enrolled in an approved peer review program, a list of firms that have not provided the verification required by [4 CSR 10-5.090] **20 CSR 2010-5.090**, and a list of firms terminated from the

peer review program. These firms may be determined to be ineligible for renewal by the board.

(4) Firms determined to be ineligible for renewal for failure to be currently enrolled in an approved peer review program, and/or failure to provide the verifications required by [4 CSR 10-5.090] **20 CSR 2010-5.090** shall be notified by the board in writing of the reason(s) and shall be advised of its right to file a complaint with the Administrative Hearing Commission.

*AUTHORITY: sections 326.271 and 326.289.9, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-5.100. Original rule filed Nov. 3, 2003, effective June 30, 2004. Moved to 20 CSR 2010-5.100, effective Aug. 28, 2006. Amended: Filed Feb. 23, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 2010—Missouri State Board of Accountancy  
Chapter 5—Peer Review**

**PROPOSED AMENDMENT**

**20 CSR 2010-5.110 Oversight.** The board is proposing to amend sections (1) and (5).

*PURPOSE: Pursuant to Senate Bill 788 (2008), the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 10 are being amended throughout the rule.*

(1) The president of the board shall appoint a Peer Review Oversight Board (PROB) to ensure that firms comply with the peer review requirements for firm permit renewal. All appointments must be approved by a majority of the board. PROB members may be removed at any time by a majority vote of the board for cause. The PROB shall meet as necessary to ascertain that participating firms are successfully undergoing peer review, are providing the verification required by [4 CSR 10-5.090] **20 CSR 2010-5.090**, and are eligible for renewal of their firm permit. For the purposes of this rule, “undergoing peer review” shall mean enrolled in a peer review program that has been determined, by the PROB, to meet or exceed the standards of the American Institute of Certified Public Accountants (AICPA) peer review program which has been approved by the board. In addition, a firm undergoing peer review shall have made the verifications required by [4 CSR 10-5.090] **20 CSR 2010-5.090**.

(5) The peer review standards, requirements, administration, and oversight set forth in [4 CSR 10-5.070] **20 CSR 2010-5.070**

through [4 CSR 10-5.110] **20 CSR 2010-5.110** shall not be applicable to any peer review proceedings conducted pursuant to section 326.310.3, RSMo, unless the board so authorizes on a case-by-case determination.

*AUTHORITY: sections 326.265, 326.271, and 326.289.9, RSMo Supp. [2003] 2009. This rule originally filed as 4 CSR 10-5.110. Original rule filed Nov. 3, 2003, effective June 30, 2004. Moved to 20 CSR 2010-5.110, effective Aug. 28, 2006. Amended: Filed Feb. 23, 2010.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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 22—MISSOURI CONSOLIDATED HEALTH  
CARE PLAN**

**Division 10—Health Care Plan  
Chapter 2—State Membership**

**PROPOSED AMENDMENT**

**22 CSR 10-2.075 Review and Appeals Procedure.** The Missouri Consolidated Health Care Plan is amending section (5) and adding new section (6).

*PURPOSE: This amendment includes changes to the policy of the board of trustees in regard to appeals procedures of the Missouri Consolidated Health Care Plan.*

(5) All members of the Missouri Consolidated Health Care Plan (MCHCP) shall use the claims and administration procedures established by the [health maintenance organization (HMO), point-of-service (POS), preferred provider organization (PPO), or co-pay] health plan contractor or claims administrator applicable to the member. **Appeals to the health plan contractor or claims administrator must be made in writing within one hundred eighty (180) days of receiving the denial or notice which gave rights to the appeal.** Only after these procedures have been exhausted may the member appeal directly to the Missouri Consolidated Health Care Plan [Board of Trustees] to review the decision of the health plan contractor or claims administrator.

(A) Appeals to [the board of trustees] MCHCP shall be submitted in writing within forty-five (45) days of receiving the final decision from the member’s health care plan contractor or claims administrator, specifically identifying the issue to be resolved. **Administrative appeals shall be submitted in writing as soon as possible following written or verbal notice of an MCHCP staff denial of the member’s administrative request. All appeals and administrative appeals shall [and] be addressed to:**

Attn: Appeal  
Board of Trustees  
Missouri Consolidated Health Care Plan  
PO Box 104355  
Jefferson City, MO 65110

(B) The board may, in its discretion, choose to conduct a hearing regarding a member's appeal. If the board decides a hearing is needed to render a decision, it may utilize a hearing officer or committee, such as the Administrative Hearing Commission, to conduct a fact-finding hearing, and make proposed findings of fact and conclusions of law. In such cases—

1. The hearing will be scheduled by the MCHCP;
2. The parties to the hearing will be the insured and the applicable health plan or MCHCP staff in self-insured situations;
3. All parties shall be notified in writing of the date, time, and location of the hearing;
4. All parties shall have the right to appear at the hearing and submit written or oral evidence. The appealing party shall be responsible for all copy charges incurred by MCHCP in connection with any documentation that must be obtained through the MCHCP. These fees will be reimbursed should the party prevail in his/her appeal. They may cross-examine witnesses. They need not appear and may still offer written evidence. The strict rules of evidence shall not apply;
5. The party appealing to the board shall carry the burden of proof; and
6. The independent hearing officer shall propose findings of fact and conclusions of law, along with its recommendation, to the board. Copies of the summary, findings, conclusions, and recommendations shall be sent to all parties.

(C) The board may, but is not required to, review the transcript of the hearing and solicit additional evidence and argument. It will review the summary of evidence and the proposed findings of fact and conclusions of law and shall then issue its final decision on the matter.

1. All parties shall be given a written copy of the board's final decision.
2. All parties shall be notified that if they feel aggrieved by the final decision, they shall have the right to seek judicial review of the decision within thirty (30) days of its receipt, as provided in sections 536.100 to 536.140, RSMo by Missouri law.

(D) Administrative decisions made solely by MCHCP may be appealed directly to the board of trustees, by either a member or health plan contractor providing a fully-insured product.

1. All the provisions of this rule, where applicable, shall apply to these appeals.
2. The parties to such appeal shall be the appellant and the MCHCP shall be respondent.
3. The appellant, if aggrieved by the final decision of the board, shall have the right of appeal as stated in subsection (5)(C) herein.

[4.](6) In reviewing these appeals, notwithstanding any other rule, the board and/or staff may consider grant any appeals when there is credible evidence to support approval under the following guidelines:

[A.](A) Newborns—If a member currently has coverage under the plan, he/she may enroll his/her newborn retroactively to the date of birth if the request is made within three (3) months of the child's date of birth.

[B.](B) Credible evidence—Notwithstanding any other rule, the Agency error—MCHCP may grant an appeal and not hold the member responsible when there is credible evidence that there has been an error or miscommunication, either through the member's payroll/personnel office or, the MCHCP, or plan offered by MCHCP that was no fault of the member.

[C. Change of plans due to dependent change of address—A member may change plans outside the open enrollment period if his/her covered dependents move out of state and their current plan cannot provide coverage.]

[(E)](C) Any member wishing to appeal their change his/her plan enrollment selection made during the annual open enrollment period must request to do so in writing to the board of trustees within thirty-one (30) (31) calendar days of the beginning of the new plan year. [The MCHCP will respond within thir-

ty (30) calendar days of the receipt of the appeal.]

(D) Non-payment—MCHCP may allow one (1) reinstatement for terminations due to non-payment (per lifetime of account).

(E) Reinstatement before termination—MCHCP may reinstate coverage if request is received prior to end of current coverage.

(F) Termination dental and/or vision coverage—MCHCP may terminate dental and/or vision coverage if request is received prior to February 1 and if no claims have been made/paid for January.

(G) Proof of eligibility—MCHCP may approve late receipt of proof-of-eligibility documentation if MCHCP can verify that it took an unreasonable amount of time for public entity (county or state) to provide subscriber with requested documentation.

(H) Change in medical plan selection—MCHCP may approve change of medical plans prospectively if request is received within the first thirty (30) days of the start of coverage.

(I) Loss of coverage notice—MCHCP may approve late request to enroll due to late notice of loss of coverage from previous carrier if request is timely from date of late notice.

(J) Lifestyle Ladder participation—MCHCP may deny all appeals regarding continuation of participation in Lifestyle Ladder due to failure of member's participation.

(K) Proof of open enrollment confirmation—MCHCP may approve appeals if subscriber is able to provide a confirmation sheet from open enrollment. However, such administrative appeals must be received by MCHCP on or before the last day of February.

(L) Substantiating evidence—MCHCP may approve appeals, other than those relating to non-payment, if subscriber is able to provide substantiating evidence that requisite information was sent during eligibility period.

(M) New employee changes—MCHCP may approve plan changes retrospectively for new employees within thirty (30) days of election of coverage if no claims have been filed with the previous carrier.

*AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 13, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 21, 1994, effective June 30, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 17, 2010.*

*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 Consolidated Health Care Plan, Richard Bowles, PO Box 104355, Jefferson City, MO 65110. 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 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN

### Division 10—Health Care Plan Chapter 2—State Membership

#### PROPOSED AMENDMENT

**22 CSR 10-3.075 Review and Appeals Procedure.** The Missouri Consolidated Health Care Plan is amending section (5) and adding a new section (6).



*PURPOSE: This amendment includes changes to the policy of the board of trustees in regard to appeals procedures of the Missouri Consolidated Health Care Plan.*

(5) All members of the Missouri Consolidated Health Care Plan (MCHCP) shall use the claims and administration procedures established by the *[health maintenance organization (HMO), point-of-service (POS), or preferred provider organization (PPO)]* health plan contractor or claims administrator applicable to the member. **Appeals to the health plan contractor or claims administrator must be made in writing within one hundred eighty (180) days of receiving the denial or notice which gave rights to the appeal.** Only after these procedures have been exhausted may the member appeal directly to the Missouri Consolidated Health Care Plan *[Board of Trustees]* to review the decision of the health plan contractor or claims administrator.

(A) Appeals to *[the board of trustees]* MCHCP shall be submitted in writing within forty-five (45) days of receiving the final decision from the member's health care plan **contractor or claims administrator**, specifically identifying the issue to be resolved. **Administrative appeals shall be submitted in writing as soon as possible following written or verbal notice of an MCHCP staff denial of the member's administrative request. All appeals and administrative appeals shall *[and]* be addressed to:**

Attn: Appeal  
Board of Trustees  
Missouri Consolidated Health Care Plan  
PO Box 104355  
Jefferson City, MO 65110

(B) The board may, **in its discretion, choose to conduct a hearing regarding a member's appeal. If the board decides a hearing is needed to render a decision, it may utilize a hearing officer or committee, such as the Administrative Hearing Commission,** to conduct a fact-finding hearing $/,$  and make proposed findings of fact and conclusions of law. **In such cases—**

1. The hearing will be scheduled by the MCHCP $/.$ ;
2. The parties to the hearing will be the insured and the applicable health plan **or MCHCP staff in self-insured situations $/.$ ;**
3. All parties shall be notified in writing of the date, time, and location of the hearing $/.$ ;
4. All parties shall have the right to appear at the hearing and submit written or oral evidence. The appealing party shall be responsible for all copy charges incurred by MCHCP in connection with any documentation that must be obtained through the MCHCP. These fees will be reimbursed should the party prevail in his/her appeal. They may cross-examine witnesses. They need not appear and may still offer written evidence. The strict rules of evidence shall not apply $/.$ ;
5. The party appealing to the board shall carry the burden of proof $/.$ ; **and**
6. The *[independent]* hearing officer shall propose findings of fact and conclusions of law, along with its recommendation, to the board. Copies of the summary, findings, conclusions, and recommendations shall be sent to all parties.

(C) The board may, but is not required to, review the transcript of the hearing **and solicit additional evidence and argument.** It will review the summary of evidence $/,$  and the proposed findings of fact and conclusions of law and shall then issue its final decision on the matter.

1. All parties shall be given a written copy of the board's final decision.
2. All parties shall be notified that if they feel aggrieved by the final decision, they shall have the right to seek judicial review of the decision *[within thirty (30) days of its receipt,]* as provided *[in sections 536.100 to 536.140, RSMo]* by Missouri law.

(D) Administrative decisions made solely by MCHCP may be appealed directly to the board of trustees, by either a member or

health plan contractor providing a fully-insured product.

1. All the provisions of this rule, where applicable, shall apply to these appeals.
2. The parties to such appeal shall be the appellant and the MCHCP shall be respondent.
3. The appellant, if aggrieved by the final decision of the board, shall have the right of appeal as stated in subsection (5)(C) herein.

*[4.](6)* In reviewing *[these]* appeals, **notwithstanding any other rule,** the board and/or staff may *[consider]* grant any appeals when there is credible evidence to support approval under the following guidelines:

*[A.](A)* Newborns—If a member currently has coverage under the plan, he/she may enroll his/her newborn retroactively to the date of birth if the request is made within three (3) months of the child's date of birth.

*[B.](B)* *[Credible evidence—Notwithstanding any other rule, the]* Agency error—MCHCP may grant an appeal and not hold the member responsible when there is credible evidence that there has been an error or miscommunication, either through the member's payroll/personnel office *[or],* the MCHCP, **or plan offered by MCHCP** that was no fault of the member.

*[C. Change of plans due to dependent change of address—A member may change plans outside the open enrollment period if his/her covered dependents move out of state and their current plan cannot provide coverage.]*

*[E.](C)* Any member wishing to *[appeal their]* change his/her plan *[enrollment]* selection *[completed]* made during the annual open enrollment period must **request to** do so in writing to the board of trustees within thirty-one *[(30)]* (31) calendar days of the beginning of the new plan year. *[The MCHCP will respond within thirty (30) calendar days of the receipt of the appeal.]*

(D) Non-payment—MCHCP may allow one (1) reinstatement for terminations due to non-payment (per lifetime of account).

(E) Reinstatement before termination—MCHCP may reinstate coverage if request is received prior to end of current coverage.

(F) Termination dental and/or vision coverage—MCHCP may terminate dental and/or vision coverage if request is received prior to February 1 and if no claims have been made/paid for January.

(G) Proof of eligibility—MCHCP may approve late receipt of proof-of-eligibility documentation if MCHCP can verify that it took an unreasonable amount of time for public entity (county or state) to provide subscriber with requested documentation.

(H) Change in medical plan selection—MCHCP may approve change of medical plans prospectively if request is received within the first thirty (30) days of the start of coverage.

(I) Loss of coverage notice—MCHCP may approve late request to enroll due to late notice of loss of coverage from previous carrier if request is timely from date of late notice.

(J) Lifestyle Ladder participation—MCHCP may deny all appeals regarding continuation of participation in Lifestyle Ladder due to failure of member's participation.

(K) Proof of open enrollment confirmation—MCHCP may approve appeals if subscriber is able to provide a confirmation sheet from open enrollment. However, such administrative appeals must be received by MCHCP on or before the last day of February.

(L) Substantiating evidence—MCHCP may approve appeals, other than those relating to non-payment, if subscriber is able to provide substantiating evidence that requisite information was sent during eligibility period.

(M) New employee changes—MCHCP may approve plan changes retrospectively for new employees within thirty (30) days of election of coverage if no claims have been filed with the previous carrier.

*AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 20, 2004, effective Jan. 1, 2005, expired June 29, 2005.*

*Original rule filed Dec. 20, 2004, effective June 30, 2005. Emergency amendment filed Dec. 22, 2008, effective Jan. 1, 2009, expired June 29, 2009. Amended: Filed Dec. 22, 2008, effective June 30, 2009. Amended: Filed Feb. 17, 2010.*

*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 Consolidated Health Care Plan, Richard Bowles, PO Box 104355, Jefferson City, MO 65110. 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.*

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

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 1—Director's Office  
Chapter 3—Consolidation of Permit Processing**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Natural Resources under section 640.017, RSMo Supp. 2009, the department adopts a rule as follows:

**10 CSR 1-3.010 Consolidation of Permit Processing is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 2, 2009 (34 MoReg 2385). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Director's Office received no comment on the proposed rule from any source.

**SUMMARY OF TESTIMONY:** This proposed rule did not have a public hearing.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 2, 2009 (34 MoReg 2385-2386). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments on this amendment. The comments were from a Missouri Air Conservation Commissioner, the U.S. Environmental Protection Agency (EPA), and the Springfield-Greene County Health Department.

**COMMENT #1:** A Missouri Air Conservation Commissioner commented that it would be helpful to include clarification in the rule text explaining the reason that there are two (2) standards listed for both ozone and lead.

**RESPONSE AND EXPLANATION OF CHANGE:** In response to this comment, the year in which the ozone and lead standards were first promulgated has been placed under the pollutant name. The order in which the lead standards are listed has been reversed from what was proposed at the public hearing in order to list the more recent standard first. In addition, footnote language has been included to explain why the old standards remain listed in this table.

**COMMENT #2:** EPA noted that there was a discrepancy between the proposed rulemaking published in the *Missouri Register*, and the proposed rulemaking in the briefing document. The nitrogen dioxide standard is incorrectly listed as a value of 0.05 parts per million (ppm) in the *Missouri Register* rather than 0.053 ppm.

**RESPONSE AND EXPLANATION OF CHANGE:** This proposed revision to the nitrogen dioxide standard simply clarifies the value for consistency with the federal rule. The order of rulemaking will reflect the correct value.

**COMMENT #3:** Springfield-Greene County Health Department commented that they support the proposed amendments to this rule and that these amendments are important for controlling air emissions in Missouri.

**RESPONSE:** The department appreciates Springfield-Greene County Health Department's supportive comments on the proposed rulemaking. No changes have been made to the rule as a result of this comment.

**10 CSR 10-6.010 Ambient Air Quality Standards**

Pollutant	Concentration	Method	Remarks	Pollutant	Concentration	Method	Remarks
1. Particulate matter 10 micron (PM <sub>10</sub> )	150 micrograms per cubic meter	As specified in 10 CSR 10-6.040(4)(J)	24-hour average concentration. Not more than one expected exceedance, 3-year average (see 10 CSR 10-6.040(4)(K))	4. 8-hour ozone (2008)	0.075 ppm	As specified in 10 CSR 10-6.040(4)(D)	8-hour standard not to exceed 3-year average of the 4th highest daily maximum (see 10 CSR 10-6.040(4)(N))
Particulate matter 2.5 micron (PM <sub>2.5</sub> )	15 micrograms per cubic meter	As specified in 10 CSR 10-6.040(4)(L)	3-year average of annual arithmetic mean	8-hour ozone (1997) *	0.08 ppm	As specified in 10 CSR 10-6.040(4)(D)	8-hour standard not to exceed 3-year average of the 4th highest daily maximum (see 10 CSR 10-6.040(4)(I))
	35 micrograms per cubic meter	As specified in 10 CSR 10-6.040(4)(L)	24-hour average concentration using 98th percentile of monitored daily concentration (see 10 CSR 10-6.040(4)(M))	5. Nitrogen dioxide	0.053 ppm (100 micrograms per cubic meter)	As specified in 10 CSR 10-6.040(4)(F)	Annual arithmetic mean not to be exceeded
2. Sulfur dioxide	0.03 ppm (80 micrograms per cubic meter)	As specified in 10 CSR 10-6.040(4)(A)	Annual arithmetic mean	6. Hydrogen sulfide	0.05 ppm (70 micrograms per cubic meter)	As specified in 10 CSR 10-6.040(5)	1/2-hour average not to be exceeded over 2 times per year
	0.14 ppm (365 micrograms per cubic meter)	As specified in 10 CSR 10-6.040(4)(A)	24-hour average not to be exceeded more than once per year		0.03 ppm (42 micrograms per cubic meter)	As specified in 10 CSR 10-6.040(5)	1/2-hour average not to be exceeded over 2 times in any 5 consecutive days
	0.5 ppm (1,300 micrograms per cubic meter)	As specified in 10 CSR 10-6.040(4)(A)	3-hour average not to be exceeded more than once per year	7. Sulfuric acid	10 micrograms per cubic meter	As specified in 10 CSR 10-6.040(6)	24-hour average not to be exceeded more than once in any 90 consecutive days
3. Carbon monoxide	9 ppm (10,000 micrograms per cubic meter)	As specified in 10 CSR 10-6.040(4)(C)	8-hour average not to be exceeded more than once per year		30 micrograms per cubic meter	As specified in 10 CSR 10-6.040(6)	1-hour average not to be exceeded more than once in any 2 consecutive days
	35 ppm (40,000 micrograms per cubic meter)	As specified in 10 CSR 10-6.040(4)(C)	1-hour average not to be exceeded more than once per year	8. Lead (2008)	0.15 micrograms per cubic meter	As specified in 10 CSR 10-6.040(4)(G)	Rolling 3-month average not to be exceeded (see 10 CSR 10-6.040(4)(O))
				Lead (1978) **	1.5 micrograms per cubic meter	As specified in 10 CSR 10-6.040(4)(G)	Calendar quarter arithmetic mean not to be exceeded

\* Note: While the 1997 and 2008 ozone standards are both in effect, the 1997 standard will only remain in effect until the standard is rescinded or voided by federal code.

\*\* Note: While the 1978 and 2008 lead standards are both in effect, the 1978 standard will only remain in effect until the standard is rescinded or voided by federal code.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

**10 CSR 10-6.040 Reference Methods is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 2, 2009 (34 MoReg 2386–2387). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources’ Air Pollution Control Program received one (1) comment on this amendment. The comment was from the Springfield-Greene County Health Department.

COMMENT #1: Springfield-Greene County Health Department commented that they support the proposed amendments to this rule and that these amendments are important for controlling air emissions in Missouri.

RESPONSE: The department appreciates Springfield-Greene County Health Department’s supportive comments on the proposed rulemaking. No changes have been made to the rule as a result of this comment.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

**10 CSR 10-6.070 New Source Performance Regulations is amended.**

A notice of proposed rulemaking containing the text of the proposed

amendment was published in the *Missouri Register* on November 2, 2009 (34 MoReg 2387–2389). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment from one (1) source: the Springfield-Greene County Health Department.

**COMMENT #1:** Springfield-Greene County Health Department commented that they support the proposed amendment to this rule and that this amendment is important for controlling air emissions in Missouri.

**RESPONSE:** The department appreciates Springfield-Greene County Health Department's supportive comment on the proposed rulemaking. No changes have been made to the rule as a result of this comment.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

**10 CSR 10-6.075** Maximum Achievable Control Technology Regulations **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 2, 2009 (34 MoReg 2389–2392). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment from one (1) source: the Springfield-Greene County Health Department.

**COMMENT #1:** Springfield-Greene County Health Department commented that they support the proposed amendment to this rule and that this amendment is important for controlling air emissions in Missouri.

**RESPONSE:** The department appreciates Springfield-Greene County Health Department's supportive comment on the proposed rulemaking. No changes have been made to the rule as a result of this comment.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

**10 CSR 10-6.080** Emission Standards For Hazardous Air Pollutants **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 2, 2009 (34 MoReg 2392). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment from one (1) source: the Springfield-Greene County Health Department.

**COMMENT #1:** Springfield-Greene County Health Department commented that they support the proposed amendment to this rule and that this amendment is important for controlling air emissions in Missouri.

**RESPONSE:** The department appreciates Springfield-Greene County Health Department's supportive comment on the proposed rulemaking. No changes have been made to the rule as a result of this comment.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

**10 CSR 10-6.130** Controlling Emissions During Episodes of High Air Pollution Potential **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 2, 2009 (34 MoReg 2392–2394). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment on this amendment. The comment was from the Springfield-Greene County Health Department.

**COMMENT #1:** Springfield-Greene County Health Department commented that they support the proposed amendments to this rule and that these amendments are important for controlling air emissions in Missouri.

**RESPONSE:** The department appreciates Springfield-Greene County Health Department's supportive comments on the proposed rulemaking. No changes have been made to the rule as a result of this comment.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.390 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2009 (34 MoReg 2145-2146). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Air Pollution Control Program received nine (9) comments from four (4) sources: Springfield-Greene County Health Department, Lathrop & Gage LLP on behalf of Poplar Bluff Municipal Utilities Generating Plant, the U.S. Environmental Protection Agency (EPA), and the Missouri Air Conservation Commission.

**COMMENT #1:** Springfield-Greene County Health Department commented that they support the proposed amendment to this rule and that the amendment is important for controlling air emissions in Missouri.

**RESPONSE:** The department appreciates Springfield-Greene County Health Department's supportive comment on the proposed rulemaking. No changes have been made to the rule as a result of this comment.

Due to similar concerns addressed in the following two (2) comments, one (1) response that addresses these concerns can be found at the end of these two (2) comments:

**COMMENT #2:** Lathrop & Gage LLP commented that three (3) of Poplar Bluff's units could potentially be subject to installing controls if the NO<sub>x</sub> fifteen (15)-ton emission limit is exceeded. The cost of retrofitting these units is an expenditure in excess of \$1.5 million. The proposed amendment states that the resulting cost is less than five-hundred dollars (\$500). Based on EPA's NO<sub>x</sub> State Implementation Plan (SIP) Call report, the cost statement substantially underestimates the financial impact of this rule for retrofitting the affected engines with NO<sub>x</sub> low emission combustion control technology, and this fiscal analysis note should be changed to reflect this impact on the utility.

**COMMENT #3:** A Missouri Air Conservation Commissioner requested a projected cost for the affected communities and an understanding of the size of the communities.

**RESPONSE:** For clarification, the six (6) affected Missouri communities, their population, and the number of affected engines are as follows: Campbell, 1,841 people, one (1) engine; Farmington, 16,097 people, fourteen (14) engines; Jackson, 13,744 people, three (3) engines; Kahoka, 2,182 people, three (3) engines; Owensville, 2,588 people, four (4) engines; and Poplar Bluff, 17,096 people, three (3) engines. These comments assume the affected engines are subject to the emission rate limitations in the rule and would be required to install controls. However, the proposed NO<sub>x</sub> fifteen (15)-ton per unit exemption was intended to allow flexibility in the operation of all affected engines without requiring installation of controls on these small emission sources. Since Poplar Bluff's affected three (3) engines began operation in 2002, the annual emissions from all three (3) engines combined has not exceeded eighteen and two-tenths (18.2) tons of NO<sub>x</sub>, and all three (3) would be exempt with the proposed fifteen (15)-ton per unit limit. In addition, annual emissions from engines operated by the other communities are well below the fifteen (15)-ton exemption limit. Even though these facilities are not required to install control equipment and as a result of these comments, the below chart has been provided identifying what the costs would be for any facility that would increase their emission rate beyond current levels and exceed the rule exemption level resulting in

a need to install NO<sub>x</sub> control equipment. The costs are on a per-engine basis.

Control Method	<sup>3</sup> Capital Cost (\$)	<sup>3</sup> Annual Maintenance Cost (\$)
<sup>1</sup> Low Emission Combustion (LEC)	496,800–875,540	106,474–156,990
<sup>2</sup> Ignition/Injection Timing Retard	13,124–26,249	6,781–85,311
<sup>2</sup> NO <sub>x</sub> Adsorber	68,905	9,843
<sup>1</sup> Non-Selective Catalytic Reduction (NSCR)	106,575–372,424	167,811–359,175
<sup>2</sup> NO <sub>x</sub> Tech	662,414–1,987,242	Not Available
<sup>1</sup> Selective Catalytic Reduction (SCR)	562,316–1,423,454	348,933–770,124

<sup>1</sup>NO<sub>x</sub> Emissions Control Costs for Stationary Reciprocating Internal Combustion Engines in the NO<sub>x</sub> SIP Call States.

<sup>2</sup>NO<sub>x</sub> Control Technologies for Stationary Diesel Internal Combustion Engines.

<sup>3</sup>All costs in 2008 (\$).

No wording changes have been made to the rule text as a result of these comments.

Due to similar concerns addressed in the following two (2) comments, one (1) response that addresses these concerns can be found at the end of these two (2) comments:

COMMENT #4: Lathrop & Gage LLP commented that the NO<sub>x</sub> SIP Call provided Missouri with the flexibility to determine which source categories to regulate to meet their emissions budget. Missouri satisfied EPA's NO<sub>x</sub> SIP Call requirements with the implementation of the triad of NO<sub>x</sub> control rules that became effective October 30, 2005. Because of the passage of those state rules in 2005 and EPA's approval on August 15, 2006, the Missouri Air Conservation Commission has the discretion to implement revisions to 10 CSR 10-6.390 as appropriate for Missouri. Lathrop & Gage LLP also commented that the fifteen (15)-ton exemption in the proposed amendment, if increased to a twenty-five (25)-ton exemption, would provide Poplar Bluff with enough flexibility to prevent the expenditure of adding NO<sub>x</sub> control equipment to the affected units.

COMMENT #5: One of the Missouri Air Conservation Commissioners commented that the Air Program should consider the possibility of a higher exemption level or explain why it is not feasible.

RESPONSE AND EXPLANATION OF CHANGE: As mentioned in the comment, Missouri satisfied NO<sub>x</sub> SIP Call requirements with the three (3) NO<sub>x</sub> control rules that were approved into the SIP in 2006. As requested to provide more operating flexibility, the Air Program has amended subsection (1)(D) to increase the per unit exemption to twenty-five (25) tons NO<sub>x</sub> for the control period from May 1 to September 30.

COMMENT #6: Lathrop & Gage LLP commented that the proposed rule will not result in an overall benefit in the air shed because Poplar Bluff would likely be forced to use its less efficient, higher NO<sub>x</sub> emitting two (2) older internal combustion (IC) engines that are not subject to this rule.

RESPONSE: As discussed in the response to Comments #4 and #5, the program increased the exemption level to twenty-five (25) tons, which provides Poplar Bluff with more flexibility to operate the newer engines. No additional changes were made to the rule text as a result of this comment.

COMMENT #7: In oral testimony, Lathrop & Gage LLP asked that peaking units in the City of Poplar Bluff, and similarly situated entities, be included in the proposed exemption. Supplemental information provided also requests that the rule be reopened to change the definition for emergency standby engines to a more flexible definition that would allow an emergency standby engine to be operated to supplement a primary power source when the load capacity of the primary power source is reached or exceeded.

RESPONSE: The definition of emergency standby engine in section (2) of the rule is consistent with the EPA definition which specifically states that emergency standby engines cannot be operated to sup-

plement a primary power source. Changing the definition of emergency standby engine in the state rule would be problematic as it would not meet the intent of the federal requirements. Therefore, wording changes have not been made to the rule text as a result of this comment.

COMMENT #8: EPA commented that, based on the antibacksliding requirements of section 110(1) of the Clean Air Act, any exemption to this rule must be accompanied by an analysis which demonstrates that the exemption will not adversely impact air quality. As more sources are exempt from this rule, there will be a greater burden on the state to demonstrate the lack of adverse air quality impacts. The state will also need to show that the exemption will not affect the state's ability to meet its NO<sub>x</sub> SIP Call budget obligations.

RESPONSE: The department's Air Pollution Control Program will provide EPA with an analysis demonstrating the rule exemption will not adversely impact air quality and will not affect the state's ability to meet the budget responsibilities of the NO<sub>x</sub> SIP Call when the rule is submitted to EPA for inclusion in the Missouri State Implementation Plan. No wording changes have been made to the rule text as a result of this comment.

COMMENT #9: EPA commented that, in order to ensure sources continually meet the exemption, the state should consider revising the exemption language to make clear that the reporting and record-keeping requirements still apply to sources meeting the exemption.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the exemption language in subsection (1)(D) has been changed to clarify that exempt engines are still subject to reporting and record-keeping requirements found in section (4).

### 10 CSR 10-6.390 Control of NO<sub>x</sub> Emissions From Large Stationary Internal Combustion Engines

(1) Applicability. This rule applies to any large stationary internal combustion engine located in the counties of Bollinger, Butler, Cape Girardeau, Carter, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Lewis, Lincoln, Madison, Marion, Mississippi, Montgomery, New Madrid, Oregon, Pemiscom, Perry, Pike, Ralls, Reynolds, Ripley, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Scott, Shannon, Stoddard, Warren, Washington, and Wayne counties and the City of St. Louis greater than one thousand three hundred (1,300) horsepower that—

(D) Any compression ignited stationary internal combustion engine that begins operation after September 30, 1997, and emits twenty-five (25) tons or less of NO<sub>x</sub> during the period from May 1 through September 30 is exempt from the requirements in subparagraphs (3)(B)3. and (3)(B)4. of this rule but subject to the record-keeping and reporting requirements in section (4) of this rule. This exemption will be based on the previous year NO<sub>x</sub> emissions during the period from May 1 through September 30. If the exemption limit is exceeded, for any reason, the engine will be required to meet the applicable limits in subsection (3)(B) of this rule each year thereafter.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 110—Sales/Use Tax—Exemptions**

**ORDER OF RULEMAKING**

By the authority vested in the director of revenue under section 144.270, RSMo Supp. 2009 and section 144.705, RSMo 2000, the director amends a rule as follows:

12 CSR 10-110.900 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 16, 2009 (34 MoReg 2467-2472). Changes have been made in the text of the proposed amendment; those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The department received one (1) letter of comment on the proposed amendment.

**COMMENT #1:** The commenter objects to the deletion of “for non-production areas” as currently used in Code in paragraph (3)(E)7., which was in the proposed amendment as paragraph (3)(F)6. The commenter reiterates their opposition to eliminating building materials and general heating, lighting, and ventilation equipment for production areas from being eligible for tax exempt status.

**RESPONSE AND EXPLANATION OF CHANGE:** The department agrees with the comment and has changed the language as suggested.

**COMMENT #2:** The commenter objects to retaining the reference to “supplies” in conjunction with “building materials” on the list of “usually taxable items.” As specified by statute, “supplies” are included in the term “farm machinery and equipment” for purposes of section 144.030.2(22), RSMo. “Building materials” should be listed rather than “building materials and supplies.”

**RESPONSE AND EXPLANATION OF CHANGE:** The department has added “building” before supplies to clarify that it is only building supplies, and not all supplies, that are usually not exempt because they are not used directly in producing farm products.

**12 CSR 10-110.900 Farm Machinery and Equipment Related Exemptions**

(3) Basic Application of Exemption.

(F) The fact that particular items may be considered to be essential or necessary will not automatically entitle them to exemption. The following categories of items are excluded from the meaning of the term farm machinery and farm equipment, including supplies, and are subject to tax:

1. A motor vehicle and parts for a motor vehicle do not qualify as exempt farm machinery or equipment. A trailer and parts for a trailer generally do not qualify as tax exempt farm machinery or equipment. The terms motor vehicle and trailer are defined by Chapter 301, RSMo;

2. Containers and storage devices such as oil and gas storage tanks, pails, buckets, and cans;

3. Hand tools and hand-operated items such as wheelbarrows, hoes, rakes, pitchforks, shovels, brooms, wrenches, pliers, and grease guns;

4. Attachments and accessories not essential to the operation of the machinery itself (except when sold as part of the assembled unit) such as cigarette lighters, radios, canopies, air-conditioning units, cabs, deluxe seats, tool or utility boxes, and lubricators;

5. Equipment used in farm management such as communications and office equipment, repair, service, security, or fire protection equipment;

6. Building materials and general heating, lighting, and ventilation equipment for nonproduction areas; and

7. Machinery and equipment used for a dual purpose, one purpose being agricultural and the other being nonagricultural, are not exempt.

(4) Examples.

(B) Usually Taxable Items.

Acetylene torches

Air compressors

Air tanks

All-terrain vehicles (unlike an off-road utility vehicle that does not meet the definition of a motor vehicle, an all-terrain vehicle is a motor vehicle because it has a seat that is straddled and handlebars for steering)

Automobiles

Axes

Barn ventilators

Brooms

Brushes

Building materials and building supplies

Bulldozers

Cement

Chain saws

Construction tools

Electrical wiring

Equipment and supplies for home or personal use

Fence building tools

Field toilets

Fire prevention equipment

Garden hose

Garden rakes and hoes

Gasoline tanks and pumps

Golf carts

Hammers

Hand tools

Hog ringers

Lamps

Lanterns

Lawnmowers

Nails

Office supplies and equipment

Packing room supplies

Paint and decals

Personal property installed in or used in housing for farm workers

Pumps for household or lawn use

Pumps, gasoline

Refrigerators for home use

Repair tools

Road maintenance equipment

Road scrapers

Roofing

Sanders

Shovels

Silos

Small tools

Snowplows and snow equipment

Staples

Supplies for home or personal use

Tanks, air

Tanks, gasoline

Tools for repair construction

Tractors, garden

Truck beds

Water hose

Welding equipment

Wrenches



**Title 16—RETIREMENT SYSTEMS**  
**Division 20—Missouri Local Government Employees’**  
**Retirement System (LAGERS)**  
**Chapter 2—Administrative Rules**

**ORDER OF RULEMAKING**

By the authority vested in the Board of Trustees of the Missouri Local Government Employees’ Retirement System (LAGERS) under section 70.605.21, RSMo Supp. 2009, the board adopts a rule as follows:

**16 CSR 20-2.105** Determination of Amount Otherwise Payable  
During Deflation is **adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 15, 2009 (34 MoReg 2595-2596). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**T**his section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs, and other items required to be published in the *Missouri Register* by law.

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

**Division 60—Missouri Health Facilities Review Committee  
Chapter 50—Certificate of Need Program**

**NOTIFICATION OF REVIEW:  
APPLICATION REVIEW SCHEDULE**

The Missouri Health Facilities Review Committee has initiated review of the expedited application listed below. A decision is tentatively scheduled for April 21, 2010. This application is available for public inspection at the address shown below:

**Date Filed**

**Project Number:** Project Name  
City (County)  
Cost, Description

**03/05/10**

**#4455 NS:** Loch Haven Nursing Home  
Macon (Macon County)  
\$2,157,095, Renovate/modernize long-term care facility

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by April 12, 2010. All written requests and comments should be sent to:

Chairman  
Missouri Health Facilities Review Committee  
c/o Certificate of Need Program  
3418 Knipp Drive, Suite F  
Post Office Box 570  
Jefferson City, MO 65102

For additional information, contact  
Donna Schuessler, (573) 751-6403.

## STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is a list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law and whose Notice of Conviction has been filed with the Secretary of State pursuant to section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works 1) to Michael B. Robin, 2) to any other contractor or subcontractor that is owned, operated, or controlled by Mr. Robin, including Plumbco, Inc., or 3) to any other simulation of Mr. Robin or of Plumbco, Inc., for a period of one (1) year, or until December 17, 2010.

<b>Name of Contractor</b>	<b>Name of Officers</b>	<b>Address</b>	<b>Date of Conviction</b>	<b>Debarment Period</b>
Michael B. Robin DBA Plumbco, Inc. Case No. 09AO-CR01174		7534 Heron Drive Neosho, MO 64804	12/17/09	12/17/2009-12/17/2010

**T**he Secretary of State is required by sections 347.141 and 359.481, RSMo 2000, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to [dissolutions@sos.mo.gov](mailto:dissolutions@sos.mo.gov).

**NOTICE OF WINDING UP AND DISSOLUTION  
OF LIMITED LIABILITY COMPANY  
LACLEDE ELECTRIC/MFA PROPANE, L.L.C.**

On February 4, 2010, Laclede Electric/MFA Propane, L.L.C., a Missouri Limited Liability Company (the "Company"), filed its Notice of Winding Up with the Missouri Secretary of State. The dissolution of the LLC was effective on the 4<sup>th</sup> day of February, 2010.

Said Company requests that all persons and organizations who have claims against it present them immediately by letter to the Company at:

Daniel G. Beckett  
Smith Lewis, LLP  
P.O. Box 918  
Columbia, MO 65205-0918

All claims must include (1) the name, address, and phone number of the claimant; (2) the amount claimed; (3) the basis of the claim; (4) the date on which the claim arose; and (5) documentation supporting the claim.

All claims against Laclede Electric/MFA Propane, L.L.C., will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication date of the notices authorized by statute, whichever is published last.

**NOTICE OF WINDING UP AND DISSOLUTION  
OF LIMITED LIABILITY COMPANY  
CUIVRE RIVER PROPANE, L.L.C.**

On February 4, 2010, Cuivre River Propane, L.L.C., a Missouri Limited Liability Company (the "Company"), filed its Notice of Winding Up with the Missouri Secretary of State. The dissolution of the LLC was effective on the 4<sup>th</sup> day of February, 2010.

Said Company requests that all persons and organizations who have claims against it present them immediately by letter to the Company at:

Daniel G. Beckett  
Smith Lewis, LLP  
P.O. Box 918  
Columbia, MO 65205-0918

All claims must include (1) the name, address, and phone number of the claimant; (2) the amount claimed; (3) the basis of the claim; (4) the date on which the claim arose; and (5) documentation supporting the claim.

All claims against Cuivre River Propane, L.L.C., will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication date of the notices authorized by statute, whichever is published last.

**NOTICE OF WINDING UP AND DISSOLUTION  
OF LIMITED LIABILITY COMPANY  
CONSOLIDATED ENERGY, LLC**

On February 4, 2010, Consolidated Energy, LLC, a Missouri Limited Liability Company (the "Company"), filed its Notice of Winding Up with the Missouri Secretary of State. The dissolution of the LLC was effective on the 4<sup>th</sup> day of February, 2010.

Said Company requests that all persons and organizations who have claims against it present them immediately by letter to the Company at:

Daniel G. Beckett  
Smith Lewis, LLP  
P.O. Box 918  
Columbia, MO 65205-0918

All claims must include (1) the name, address, and phone number of the claimant; (2) the amount claimed; (3) the basis of the claim; (4) the date on which the claim arose; and (5) documentation supporting the claim.

All claims against Consolidated Energy, LLC, will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication date of the notices authorized by statute, whichever is published last.

**NOTICE OF WINDING UP AND DISSOLUTION  
OF LIMITED LIABILITY COMPANY  
MACON REC-MFA PROPANE, L.L.C.**

On February 4, 2010, Macon REC-MFA Propane, L.L.C., a Missouri Limited Liability Company (the "Company"), filed its Notice of Winding Up with the Missouri Secretary of State. The dissolution of the LLC was effective on the 4<sup>th</sup> day of February, 2010.

Said Company requests that all persons and organizations who have claims against it present them immediately by letter to the Company at:

Daniel G. Beckett  
Smith Lewis, LLP  
P.O. Box 918  
Columbia, MO 65205-0918

All claims must include (1) the name, address, and phone number of the claimant; (2) the amount claimed; (3) the basis of the claim; (4) the date on which the claim arose; and (5) documentation supporting the claim.

All claims against Macon REC-MFA Propane, L.L.C., will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication date of the notices authorized by statute, whichever is published last.

**Notice of Dissolution of Limited Liability Company****To All Creditors of and****All Claimants Against****Grayson and Petersen, LLC**

On January 5, 2010, Grayson and Petersen, LLC filed Notice of Winding Up with the Missouri Secretary of State. Claims against Grayson and Petersen, LLC may be submitted to Adam G. Grayson, P.O. Box 583, Steelville, Missouri 65565. Claims must include the name, address and telephone number of the claimant, the date on which the claim arose, the amount claimed, the basis for the claim, and documentation for the claim. All claims against the Company will be barred unless a proceeding to enforce the claims is commenced within three years after publication of this notice.

**NOTICE OF DISSOLUTION OF CORPORATION**

**NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST  
CRAIG ROAD COMPANY, INC., a Missouri corporation.**

On November 25, 2009, Craig Road Company, Inc., a Missouri corporation (the "Corporation"), filed its Articles of Dissolution with the Missouri Secretary of State.

The Corporation requests that all persons and organizations who have claims against it present them immediately by letter to the Corporation to the attention of Vincent J. Garozzo at Greensfelder, Hemker & Gale, P.C., 10 S. Broadway, Suite 2000, St. Louis, Missouri 63102.

All claims must include (i) the name and address of the claimant; (ii) the amount claimed; (iii) the basis for the claim; and (iv) the date(s) on which the event(s) on which the claim is based occurred.

**NOTICE: Because of the dissolution of the corporation, any claims against the Corporation will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the notice.**

**Notice of Winding Up on Limited Liability Company  
to All Creditors of and Claimants Against  
Strotherfest, LLC**

On February 22, 2010, Strotherfest, LLC, a Missouri limited liability company, filed its Notice of Winding Up with the Missouri Secretary of State effective on the filing date. You are hereby notified that if you believe you have a claim against Strotherfest, LLC, you must submit a claim to A. Scott Devouton, Devouton LLC, 230 SW Main Street, Suite 214, Lee's Summit, MO 64063. Claims must include the name and address of claimant, the amount of claim, the basis of claim, the date of the claim and documentation supporting the claim.

**NOTICE: Because of the dissolution of Strotherfest, LLC, any claims against it will be barred unless proceeding to enforce the claim is commenced within three years after publication of this notice.**

**NOTICE OF DISSOLUTION**  
**TO ALL CREDITORS AND CLAIMANTS AGAINST**  
**IDA ANDERSON FAMILY LIMITED PARTNERSHIP**

Now on this 5<sup>th</sup> day of February, 2010 comes FRED BURGER, Successor General Partner of the IDA ANDERSON FAMILY LIMITED PARTNERSHIP, and in accordance with Section 359.481 RSMO, provides the following Notice to the creditors and claimants of said Limited Partnership as follows:

1. FRED BURGER is the Successor General Partner of the above referenced Limited Partnership.
2. Said Limited Partnership has been dissolved and is in the winding up process as authorized by the Limited Partnership Agreement of said Limited Partnership and by the Missouri statutes governing Limited Partnerships (Section 359.010 RSMO et. seq.).
3. All persons and entities which have claims against the IDA ANDERSON FAMILY LIMITED PARTNERSHIP must present said claims to the undersigned Successor General Partner addressed to FRED BURGER, 300 Star Hope Lane, Elsberry, MO 63343.
4. Said claims shall include the following:
  - A. Name, address and telephone number of the Claimant;
  - B. The amount of the claim;
  - C. The date of the event upon which the claim is based;
  - D. A brief description of the nature of the debt;
  - E. Supporting documentation for such claim.
5. A claim against the aforesaid Limited partnership will be barred unless a proceeding to enforce the claim is commenced with three (3) years after the publication of this Notice.