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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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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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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. 2007.

EXECUTIVE ORDER
08-18

WHEREAS, the Director of the State Emergency Management Agency has advised me that severe storms associated with tornados and high winds have impacted communities in Missouri; and

WHEREAS, the severe weather on May 10 and 11, 2008, and continuing, has created a condition of distress and hazard to the safety, welfare, and property of the citizens of the state of Missouri beyond the capabilities of some local and other established agencies; and

WHEREAS, the citizens and communities of Missouri are still recovering from the effects of the January, February, and March 2008 major disasters; and

WHEREAS, the Missouri Department of Natural Resources is charged by law with protecting and enhancing the quality of Missouri's environment and with enforcing a variety of environmental rules and regulations; and

WHEREAS, in order to respond to the emergency and to expedite the cleanup and recovery process, it is necessary to adjust certain environmental rules and regulations on a temporary and short-term basis.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by Chapter 44, RSMo, do hereby issue the following order:

The Director of the Missouri Department of Natural Resources is vested with full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under his purview in order to best serve the interests of the public health and safety during the period of the emergency and the subsequent recovery period.

This order shall terminate on June 30, 2008, unless extended in whole or in part.

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 13th day of May, 2008.

Matt Blunt

Matt Blunt
Governor

ATTEST:

Robin Carnahan

Robin Carnahan
Secretary of State

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

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

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

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

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

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

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 18—Safety Standards

PROPOSED AMENDMENT

4 CSR 240-18.010 Safety Standards for *[Electric Utilities]* ***Electrical Corporations*****, Telecommunications Companies and Rural Electric Cooperatives**. The commission is amending the Purpose, sections (1)–(3), and adding section (5).

PURPOSE: This amendment changes the edition of the National Electrical Safety Code that the commission adopts for the minimum safety standards applicable to electrical corporations, telecommunications companies, and rural electric cooperatives, and clarifies that the new standards apply only to new installations and extensions.

*PURPOSE: This amendment prescribes minimum safety standards relating to the operation of electric utilities, telecommunications companies, and rural electric cooperatives. Adoption of this rule will not only inform the [regulated] utilities[, to which it applies,] of the minimum safety standards required by the commission [but] **and** will [also] be of assistance to the commission staff in carrying out its assigned duties.*

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 commission adopts as its rule and incorporates by reference,]* **The minimum safety standards relating to the operation of electrical corporations, telecommunications companies, and rural electric cooperatives are** Parts 1, 2**,** and 3 and Sections 1, 2**,** and 9 of the *[American National Standard,] National Electrical Safety Code* (NESC); *[2002]* **2007** Edition as approved by the American National Standards Institute on June *[14, 2001]* **16, 2006, as modified by Errata thereto issued on October 5, 2006 and May 14, 2007, and published by the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997**. *[The NESC is published by the Institute of Electrical and Electronics Engineers, Inc., as the minimum safety standards relating to the operation of electric utilities and telecommunications companies and rural electric cooperatives.]* The NESC is composed of four (4) different parts and four (4) sections, each of which pertain to different aspects of the electric and telecommunications industries. Part 1 specifies rules for the installation and maintenance of equipment normally found in electric generating plants and substations. Part 2 pertains to safety rules for overhead electric and communication lines. Part 3 contains safety rules for underground electric and communication lines. Section 1 is an introduction to the NESC, Section 2 defines special terms**,** and Section 9 requires certain grounding methods for electric and communications facilities. **The full text of this material is available at the Energy Department of the Public Service Commission, Suite 700, 200 Madison, Jefferson City, Missouri. This rule does not incorporate any subsequent amendments or additions.**

(2) *[All electric utilities and]* **Electrical corporations,** telecommunications companies**,** and rural electric cooperatives subject to regulation by this commission pursuant to Chapters 386, 392–394, RSMo **2000** shall *[be required to adhere to]* **comply with** the safety standards established by this rule **for new installations and extensions as described in the NESC**.

(3) Incident reporting requirements for *[electric utilities]* **electrical corporations** and rural electric cooperatives are found in 4 CSR 240-3.190(4).

(4) Those who excavate near underground facilities or conduct activities within ten feet (10') of overhead power lines are required to notify area utilities prior to engaging in such action, pursuant to the Underground Facility Safety and Damage Prevention Act, section 319.010 et seq., RSMo 2000, and the Overhead Power Line Safety Act, section 319.075 et seq., RSMo 2000.

AUTHORITY: sections 386.310 and 394.160, RSMo 2000. Original rule filed March 15, 1978, effective Oct. 2, 1978. For intervening

*history, please consult the **Code of State Regulations**. Amended: Filed May 2, 2008.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before July 16, 2008, and should include a reference to Commission Case No. EX-2008-0226. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at http://www.psc.mo.gov (EFIS/Case Filings). A public hearing regarding this proposed amendment is scheduled for July 16, 2008, at 10:00 am in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

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

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

PROPOSED AMENDMENT

10 CSR 20-6.010 Construction and Operating Permits. The department is amending subsection (1)(B).

PURPOSE: The commission proposes to amend this rule in order to provide an exemption for the application of pesticides from the permitting regulations. The application of pesticides must be consistent with federal and state regulatory requirements.

(1) Permits—General.

(B) The following are exempt from permit regulations:

1. Nonpoint source discharges;

2. Service connections to wastewater sewer systems;

3. Internal plumbing and piping or other water diversion or retention structures within a manufacturing or industrial plant or mine, which are an integral part of the industrial or manufacturing process or building or mining operation. An operating permit or general permit shall be required, if the piping, plumbing**,** or structures result in a discharge to waters of the state;

4. Routine maintenance or repairs of any existing sewer system, wastewater treatment facility**,** or other water contaminant or point source;

5. Single family residences; *[and]*

6. The discharge of water from an environmental emergency cleanup site under the direction of, or the direct control of, the Missouri Department of Natural Resources or the Environmental Protection Agency (EPA), provided the discharge shall not violate any condition of 10 CSR 20-7.031 Water Quality Standards;

7. Water used in constructing and maintaining a drinking water well and distribution system for public and private use, geologic test holes, exploration drill holes, groundwater monitoring wells**,** and heat pump wells; *[and]*

8. Small scale pilot projects or demonstration projects for beneficial use, that do not exceed a period of one (1) year may be exempted by written project approval from the permitting authority. The department may extend the permit exemption for up to one (1) additional year. A permit application shall be submitted at least ninety (90) days prior to end of the demonstration period if the facility intends to continue operation, unless otherwise exempted under this rule or Chapter 6*[.]*; **and**

9. The application of pesticides in order to control pests in a manner that is consistent with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Missouri Pesticide Use Act.

*AUTHORITY: section 644.026, RSMo 2000. Original rule filed June 6, 1974, effective June 16, 1974. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 12, 2008.*

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 ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Carol K. Garey, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to carol.k.garey@dnr.mo.gov. Public comments must be received by September 17, 2008. A public hearing is scheduled at a meeting of the Clean Water Commission to be held at 9:00 a.m., September 10, 2008, in The Q Hotel and Spa, 560 Westport Road, Kansas City, Missouri 64111.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

PROPOSED AMENDMENT

10 CSR 20-6.300 Concentrated Animal Feeding Operations. The department is amending the rule by reorganizing much of the existing and proposed content within 10 CSR 20-6.300 for a more logical and organized flow.

PURPOSE: This rulemaking sets forth permitting requirements for concentrated animal feeding operations, making the existing state regulation consistent with current federal regulations found in 40 CFR 122 and 412. The rulemaking also incorporates by reference portions of 40 CFR 412.

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) Definitions.

(B) Other applicable definitions are incorporated as follows:

1. Abandoned property—Real property previously used for, or which has the potential to be used for, agricultural purposes which has been placed in the control of the state, a county, or municipal government, or an agency thereof, through donation, purchase, tax delinquency, foreclosure, default**,** or settlement, including conveyance by deed in lieu of foreclosure, and has been vacant for a period of not less than three (3) years;

2. Animal—Domestic animals, fowls**,** or other types of livestock except for aquatic animals;

3. Animal unit—A unit of measurement to compare various animal types at a concentrated animal feeding operation. One animal unit equals the following: 1.0 beef feeder or slaughter animal; 0.5 horse; 0.7 dairy cow; 2.5 swine weighing over 55 pounds; *[15]* **10** nursery pigs weighing less than 55 pounds; 10 sheep; 30 chicken laying hens; 60 chicken layer pullets; 55 turkeys; 100 broiler chickens or an equivalent animal unit. The total animal units at each operating location are determined by adding the animal units for each animal type;

4. Animal unit equivalent—An equivalent animal type and weight that has a similar amount of manure produced as one of the listed animal unit categories. This also applies to other animal types which are not specifically listed;

5. Catastrophic storm—A precipitation event of twenty-four (24)-hour duration that exceeds the twenty-five (25)-year, twenty-four (24)-hour storm event;

6. Chronic storm event—A precipitation event with a duration of more than twenty-four (24) hours that exceeds the one-in-ten (1-in-10) year return frequency. Includes ten (10)-year, ten (10)-day storm, ten (10)-year three hundred sixty-five (365)-day storm and the ten (10)-year, three hundred sixty-five (365)-day rainfall minus evaporation or equivalent rainfall events as defined by the National Oceanic and Atmospheric Administration;

7. Class I and II operation*[.]***—**The class is a size category based on the design capacity of animal units or animal unit equivalents at an operating location. Class I includes the subsets of Class IA, IB, and IC. Operations that are smaller than the Class II category are unclassified. Class by animal units is presented in the following chart:

1 Animal Unit =

1.0	Beef feeder or slaughter animal	2.5	Swine weighing over 55 lbs.	30	Chicken laying hens
0.5	Horse	[*15*] **10**	Swine weighing less than 55 lbs.	60	Chicken layer pullets
0.7	Dairy cow	10	Sheep	55	Turkeys
				100	Broiler chickens

Animal Class Category

	Class IA 7,000 AUs*	**Class IB 3,000 to 6,999 AUs**	**Class IC 1,000 to 2,999 AUs**	**Class II 300 to 999 AUs**
Beef feeder or slaughter animal	7,000	3,000 to 6,999	1,000 to 2,999	300 to 999
Horse	3,500	1,500 to 3,499	500 to 1,499	150 to 499
Dairy cow	4,900	2,100 to 4,899	700 to 2,099	200 to 699
Swine weighing over 55 lbs.	17,500	7,500 to 17,499	2,500 to 7,499	750 to 2,499
Swine weighing under 55 lbs.	[*105,000*] **70,000**	[*45,000*] **30,000** to [*104,999*] **69,999**	[*15,000*] **10,000** to [*44,999*] **29,999**	[*4,500*] **3,000** to [*14,999*] **9,999**
Sheep	70,000	30,000 to 69,999	10,000 to 29,999	3,000 to 9,999
Chicken laying hens	210,000	90,000 to 209,999	30,000 to 89,999	9,000 to 29,999
Chicken layer pullets	420,000	180,000 to 419,999	60,000 to 179,999	18,000 to 59,999
Turkeys	385,000	165,000 to 384,999	55,000 to 164,999	16,500 to 54,999
Broiler Chickens	700,000	300,000 to 699,999	100,000 to 299,999	30,000 to 99,999

* Animal Units (AUs)

8. Concentrated animal feeding operation*[.]* **(CAFO)**—An operating location where animals have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12)-month period, and a ground cover of vegetation is not sustained over at least fifty percent (50%) of the animal confinement area and meets one (1) of the following criteria:

A. Class I operation; or

B. Class II operation that discharges through a man-made conveyance or where pollutants are discharged directly into waters of the state which originate outside of and pass over, across**,** or through the operation or otherwise come into direct contact with the animals confined in the operation;

9. Critical watersheds—defined as the following:

A. Watersheds for public drinking water lakes (L1 lakes defined in 10 CSR 20-7.031 and identified in Table G);

B. Watersheds located upstream away from the dam from all drinking water intake structures on lakes including the watershed of Table Rock Lake;

C. Areas in the watershed and within five (5) miles upstream of any stream or river drinking water intake structure, other than those intake structures on the Missouri and Mississippi Rivers; and

D. Watersheds of the Current (headwaters to Northern Ripley County Line), Eleven Point (headwaters to Hwy. 142)**,** and Jacks Fork (headwaters to mouth) Rivers;

10. Dry litter—A waste management system where the animals are confined on a floor that is covered with wood chips, rice hulls**,** or similar materials and the resulting litter/manure mixture has at least fifty percent (50%) dry matter and is not exposed to precipitation or storm water runoff during storage;

11. Facility—Any Class IA concentrated animal feeding operation which uses a flush system;

12. Flush system—Any animal waste moving or removing system utilizing liquid as the primary moving and removal force from animal containment buildings, as opposed to a primarily mechanical or automatic device;

13. Land application area—Agricultural land which is under the control of the CAFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied;

*[13.]***14.** Man-made conveyance—A device constructed by man and used for the purpose of transporting wastes, wastewater**,** or storm water into waters of the state. This includes, but is not limited to, ditches, pipes, gutters, emergency overflow structures, grass waterways, constructed wetland treatment systems, overland flow treatment systems**,** or similar systems. It also includes the improper land application *[of process wastes]* so as to allow runoff of applied **process** wastewater during land application;

*[14.]***15.** Mechanical or automatic device—A method or mechanical invention to remove animal wastes, such as screw augers, scrappers, etc., that does not use liquid as the primary removal force;

16. Multi-year phosphorus application—Phosphorus applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications, no additional manure, litter, or process wastewater is applied to the same land in subsequent years until the applied phosphorus has been removed from the field via harvest and crop removal;

*[15.]***17.** No-discharge operation—An operation designed, constructed and operated to meet each of the following conditions:

A. To hold or irrigate, or otherwise dispose without discharge to surface or subsurface waters of the state, all **manure, litter, or** process *[wastes]* **wastewater** and associated storm water flows except for discharges that are caused by catastrophic storm events;

B. **Manure, litter, or** *[P]***p**rocess *[wastes]* **wastewater** are not land applied during frozen, snow covered**,** or saturated soil conditions; and

C. Basins are sealed in accordance with 10 CSR 20-8;

*[16.]***18.** Occupied residence—A dwelling place for people which is inhabited at least fifty percent (50%) of the year;

*[17.]***19.** One-in-ten (1-in-10) year precipitation—The wettest precipitation expected once every ten (10) years for a three hundred sixty-five (365)-day period, based on at least thirty (30) years of records from the National Climatic Data Center;

*[18.]***20.** Operating location—All contiguous lands owned, operated**,** or controlled by one (1) person or by two (2) or more persons jointly or as tenants in common or noncontiguous lands if they use a common area for the disposal of wastes. State and county roads are not considered property boundaries for purposes of this rule;

21. Overflow—The discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or storm water can be contained by the structure;

*[19.]***22.** *[Process wastes—Process waste includes manure, wastewater and any precipitation which comes into contact with any manure, litter or bedding or any other raw material or intermediate or final material or product used in the production of animals or direct products. It includes spillage or overflow from animal watering systems; washing, cleaning or flushing of pens, barns, manure pits or other associated animal operations; washing or spray cooling of animals; dust control; storm water runoff from animal confinement areas and loading and unloading areas; storm water runoff from deposits of airborne dust from building ventilation systems or spillage of feed or manure; discharges from land application fields that occur during land application; and storm water runoff from land application fields if wastes are applied during frozen, snow covered or saturated soil conditions or if application rates exceed the maximum nitrogen utilization of the vegetation grown;]* **Process wastewater—Water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding;**

23. Production area—That part of an operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing operation, and any area used in the storage, handling, treatment, or disposal of mortalities;

*[20.]***24.** Public building—A building open to and used routinely by the public for public purposes;

25. Vegetated buffer—A narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters;

*[21.]***26.** Wet handling system—Wet handling system is the handling of manure that contains less than fifty percent (50%) dry matter or has free draining liquids. Wet handling includes that storage

of dry manure or dry litter so that it is exposed to rainfall or storm water runoff. Wet handling system also includes all gravity outfall lines, recycle pump stations, recycle force mains**,** and appurtenances.

(2) General.

(A) All persons who build, erect, alter, replace, operate, use**,** or maintain operations for generation, storage, treatment, use**,** or disposal of **manure, litter, or** process *[wastes]* **wastewater** from concentrated animal feeding operations shall obtain permits as follows:

1. Class I concentrated animal feeding operations;

2. Class II concentrated animal feeding operations which discharge through a manmade conveyance; or

3. An operation designated on a case-by-case basis under subsection (2)(C) of this rule.

(B) Exemptions.

1. Small scale pilot projects or demonstration projects for beneficial use that do not exceed a period of one (1) year may be exempted by written project approval from the permitting authority, provided the facilities are three hundred (300) animal units or smaller. The department may extend the permit exemption for up to one (1) additional year after review of the first year's results. A permit application shall be submitted at least ninety (90) days prior to end of the demonstration period if the facility intends to continue operation.

2. A permit is not required for animal feeding operations of less than three hundred (300) animal units when the operation utilizes applicable best management practices approved by the department.

3. Permits are not required for the composting of dead animals at Class IC or smaller operations when—

A. The compost operation and raw materials storage are located in enclosed buildings with impermeable floors; or

B. The unroofed compost area covers less than five thousand (5,000) square feet and is underlain with an impermeable floor, and raw materials are covered by a tarp or impermeable cover.

4. Permits are not required for storage buildings for dry litter, compost**,** or similar materials, if the storage structure is roofed and has impermeable floors.

5. Minor piping changes and other minor modifications as determined by the department.

6. Livestock markets are exempt from the provisions of *[10 CSR 20-6.300(5)]* **10 CSR 20-6.300(3)(A)–(B), 10 CSR 20-6.300(7), 10 CSR 20-6.300(3)(H)1.–2., 10 CSR 20-6.300(4)(D)–(E).**

7. Agricultural storm water runoff and return flows from irrigated agriculture when manure, litter, or process wastewater is applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater. A precipitation related discharge of manure, litter, or process wastewater from land application areas under the control of a CAFO is considered agricultural stormwater runoff.

[(E) Design Standards.

1. Process wastewater systems shall be designed in accordance with the design standards rule under 10 CSR 20-8; and

2. Effluent limitations for feedlots under 40 CFR 412 are hereby incorporated by reference. Other limitations shall be in accordance with 10 CSR 20-7.015(9)(G). Effluent limits for subsurface waters shall be in accordance with 10 CSR 20-7.015(7).]

[(3) Permits.

(A) Permits required by this regulation shall be issued in accordance with 10 CSR 20-6.010, 10 CSR 20-6.011, 10 CSR 20-6.015, 10 CSR 20-6.020 and 10 CSR 20-6.200.

(B) Applications for permits shall include a professional engineer's seal affixed to all engineering plans and engineering certifications.

(C) Class IA concentrated animal feeding operations that use wet handling systems shall be required to comply with the following minimum permit related requirements:

1. Applications for permits shall include a list of mailing addresses for all adjacent property owners and applicable planning and zoning agencies;

2. Permittee shall retain the services of a full-time resident engineer during lagoon seal construction and compaction tests for inspection and certification;

3. Barrel tests to determine lagoon leakage rates shall be conducted on all newly constructed lagoons which have not yet received operating permits. Barrel tests shall be conducted in accordance with 10 CSR 20-8.020(16)(B);

4. The department shall be notified at least seven (7) days prior to the compaction and barrel testing dates to allow observation of the tests;

5. Permits shall require operational monitoring and reporting, including nutrient levels in wastewater that is land applied; information on land application sites including dates wastewater or manure is applied, application rates per acre, application rates per hour, field slopes, locations, vegetation grown, crop yields, soil moisture and rainfall received; water level measurements in storage structures; operation of land application equipment and other pertinent information;

6. Permits shall require environmental monitoring and reporting, including nitrogen, phosphorus and potassium levels in soils; wastewater discharges that occur; storm water runoff from the property; in-steam monitoring of any waters of the state that adjoin or pass through the property; and groundwater monitoring wells, if determined to be necessary; and

7. Permits shall include a reopener clause to allow modification of the permit should future environmental data determine such is needed.

(D) As the department does not examine structural features of design or the efficiency of mechanical equipment, the issuance of a permit does not include approval of these features.

(4) Closure of Waste Storage Structures.

(A) Facilities that cease operation, or plan to close lagoons and other waste storage structures, shall comply with the requirements in this section:

1. Class I concentrated animal feeding operations which cease operation shall continue to maintain a valid operating permit or until all lagoons and waste storage structures are properly closed according to a closure plan approved by the department; and

2. Other concentrated animal feeding operations that cease operation shall either close the waste storage structures in accordance with the closure requirements in subsection (4)(B) of this rule or shall continue to maintain all storage structures so that there is not a discharge to waters of the state.

(B) Closure Requirements.

1. Lagoons and waste storage structures shall be closed by removal and land application of all waste water and sludge;

2. The removed wastewater and sludge shall be land applied at agricultural rates for fertilizer not to exceed the maximum nutrient utilization of the land application site and vegetation grown and shall be applied at controlled rates so that there will be no discharge to waters of the state; and

3. After removal and proper land application of wastewater and sludge, the earthen basins may be demolished by removing the berms, grading and revegetation of the site so as to provide erosion control, or the basin may be left in place for future use as a farm pond or similar uses.

(5) Requirements Under Sections 640.700–640.758, RSMo Supp. 1996

(A) Buffer Distances.

1. All Class I concentrated animal feeding operations shall maintain a buffer distance between the nearest animal containment building or waste holding basin and any existing public building or occupied residence. The public building or occupied residence will be considered existing if it is being used prior to the start of the neighbor notice requirements of subsection (B) of this section or thirty (30) days prior to construction permit application, whichever is later. Buffer distances shall be—

A. One thousand feet (1000') for concentrated animal feeding operations between 1,000 and 2,999 animal units (Class IC operations);

B. Two thousand feet (2,000') for concentrated animal feeding operations between 3,000 and 6,999 animal units (Class IB operations); and

C. Three thousand feet (3,000') for concentrated animal feeding operations equal to or greater than 7,000 animal units (Class IA).

2. Existing concentrated animal feeding operations are exempt from buffer distance requirements if they meet all of the following criteria:

A. Have been in existence prior to June 25, 1996;

B. Have been in continuous operation since June 25, 1996. Operations are continuous provided they have not been left vacant for longer than any eighteen (18)-month period at any one (1) time; and

C. The operation does not expand to a larger classification size.

3. When existing animal feeding operations or concentrated animal feeding operations expand to a larger class size, the set back distances shall not apply to the portion of the operation in existence as of June 25, 1996.

4. Buffer distances are not applicable to residences owned by the concentrated animal feeding operation or a residence from which a written agreement for operation is obtained from the owner of that residence. When shorter setback distances are proposed by the operation and allowed by the department, the written agreement for a shorter setback distance shall be recorded with the county recorder and filed in the chain of title for the property of the land owner agreeing to the shorter distance buffer.

(B) Neighbor Notice Requirements for Construction Permits.

1. Prior to filing an application for a construction permit with the department, all Class I concentrated animal feeding operations shall provide the following information to all the parties listed in paragraph (5)(B)2. of this section:

A. The number of animals designed for the operation;

B. The waste handling plan and general layout of the operation;

C. The location and number of acres of the operation;

D. Name, address and telephone number of registered agent;

E Notice that the department will accept written comments for a thirty (30)-day period. The thirty (30)-day notice period will begin on the day the construction permit application is received by the department.

F. The scheduled date the operation intends to submit a construction permit to the department; and

G. The address of the department office receiving comments.

2. The neighbor notice shall be provided to the following:

A. The department's Water Pollution Control Program;

B. The county governing body; and

C. All adjoining owners of property located within one and one-half (1 ½) times the buffer distances specified in subsection (5)(A). Distances are to be measured from the nearest animal confinement building or waste holding basin to the adjoining property line.

3. The construction permit applicant shall submit to the department proof the above notification has been sent.

4. All concentrated animal feeding operations shall submit to the department a map, approximate scale of 1" = 1,000', or a two (2) times enlarged copy of a United States Geological Survey 7.5 minute quadrangle map. The map shall show the operation layout, buffer distances and property owners within one and one-half (1 1/2) times the buffer distance.

5. The neighbor notice will expire if a construction permit application has not been received by the department within twelve (12) months of initiating the neighbor notice requirements.

(C) Class IA Requirements.

1. The owner or operator of any Class IA concentrated animal feeding operation utilizing flush wet handling systems shall employ one (1) or more persons who shall visually inspect the animal waste wet handling facility and holding basins. Visual inspections shall be made at least every twelve (12) hours with a deviation from the twelve (12)-hour requirement not to exceed three (3) hours. The inspections shall focus on the structural integrity of the collection system and containment structures along with any unauthorized discharges from the flush and wet handling systems. Records shall be maintained by the facility for a minimum of three (3) years on forms approved by the department.

2. All Class IA concentrated animal feeding operations utilizing flush systems shall have an electronic or mechanical shut-off in the event of pipe stoppage or backflow. For new facilities, the shut-off shall be included as part of the construction permit application.

3. Secondary containment structure.

A. All Class IA concentrated animal feeding operations utilizing flush systems shall have a containment structure(s) or earthen dam(s).

B. The containment structure(s) or earthen dam(s) shall be sized to contain a minimum volume equal to the maximum capacity of flushing in any twenty-four (24)-hour period from all gravity outfall lines, recycle pump stations and recycle force mains.

C. Construction permit(s) shall be required for the design and construction of the containment structures for all new facilities.

4. Any unauthorized discharges by a Class IA concentrated animal feeding operation from a flush or wet handling system that cross the property line of the facility, or enter the waters of the state, shall be reported to the department and to all adjoining property owners of the facility within twenty-four (24) hours.

(D) Concentrated Animal Feeding Operation Indemnity Fund.

1. Class IA concentrated animal feeding operations utilizing flush systems, shall pay an annual fee of ten cents (10¢) per animal unit to the department for deposit in the Concentrated Animal Feeding Operations Indemnity Fund.

2. The annual fee shall be based upon the animal unit permitted capacity of the facility.

3. The annual fee shall be collected each year for ten (10) years on the anniversary date of the operating permit. For facilities permitted after June 25, 1996, the annual fee shall commence on the first anniversary of the operating permit. The annual fee for facilities permitted prior to June 25,

1996, shall commence on the first full year anniversary of the permit following June 25, 1996.

4. In the event the department determines that a Class IA facility has been successfully closed by the owner or operator, all moneys paid by such operations into the Concentrated Animal Feeding Operation Indemnity Fund shall be returned to the operation. In no event, however, shall this refund exceed the unencumbered balance in the Concentrated Animal Feeding Operation Indemnity Fund.

5. The fees referenced in subsection (5)(D) shall be paid by a check or money order and made payable to the State of Missouri, Concentrated Animal Feeding Operation Indemnity Fund. In the event a check used for the payment of operating fees is returned to the department marked insufficient funds, the person forwarding the check shall be given fifteen (15) days to correct the insufficiency.

6. Fees shall be submitted to: Department of Natural Resources, Water Pollution Control Program, Permit Section, P.O. Box 176, Jefferson City, MO 65102.

7. Each payment shall identify the following: state operating permit number, payment period and permittee's name and address. Persons who own or operate more than one (1) operation may submit one (1) check to cover all annual fees, but are responsible for submitting the appropriate information to allow proper credit for each permit file account.

8. Annual fees are the responsibility of the permittee. Failure to receive a billing notice is not an excuse for failure to remit the fees.]

(3) Permits.

(A) General Requirements.

1. Permits required by this regulation shall be issued in accordance with 10 CSR 20-6.010, 10 CSR 20-6.011, 10 CSR 20-6.015, 10 CSR 20-6.020, and 10 CSR 20-6.200.

2. Applications for permits shall include a professional engineer's seal affixed to all engineering plans and engineering certifications.

3. As the department does not examine structural features of design or the efficiency of mechanical equipment, the issuance of a permit does not include approval of these features.

4. Prior to the transfer of manure, litter, or process wastewater to other persons, the permittee will provide the recipient the most current nutrient analysis.

5. Mortalities must not be disposed of in any liquid manure or process wastewater system, and must be handled in such a way as to prevent the discharge of pollutants to surface waters.

(B) Buffer Distances.

1. All Class I concentrated animal feeding operations shall maintain a buffer distance between the nearest animal containment building or waste holding basin and any existing public building or occupied residence. The public building or occupied residence will be considered existing if it is being used prior to the start of the neighbor notice requirements of subsection (B) of this section or thirty (30) days prior to construction permit application, whichever is later. Buffer distances shall be—

A. One thousand feet (1000') for concentrated animal feeding operations between 1,000 and 2,999 animal units (Class IC operations);

B. Two thousand feet (2,000') for concentrated animal feeding operations between 3,000 and 6,999 animal units (Class IB operations); and

C. Three thousand feet (3,000') for concentrated animal feeding operations equal to or greater than 7,000 animal units (Class IA).

2. Existing concentrated animal feeding operations are exempt from buffer distance requirements if they meet all of the following criteria:

A. Have been in existence prior to June 25, 1996;

B. Have been in continuous operation since June 25, 1996. Operations are continuous provided they have not been left vacant for longer than any eighteen (18)-month period at any one (1) time; and

C. The operation does not expand to a larger classification size.

3. When existing animal feeding operations or concentrated animal feeding operations expand to a larger class size, the setback distances shall not apply to the portion of the operation in existence as of June 25, 1996.

4. Buffer distances are not applicable to residences owned by the concentrated animal feeding operation or a residence from which a written agreement for operation is obtained from the owner of that residence. When shorter setback distances are proposed by the operation and allowed by the department, the written agreement for a shorter setback distance shall be recorded with the county recorder and filed in the chain of title for the property of the land owner agreeing to the shorter distance buffer.

(C) Neighbor Notice Requirements for Construction Permits.

1. Prior to filing an application for a construction permit with the department, all Class I concentrated animal feeding operations shall provide the following information to all the parties listed in paragraph (3)(C)2. of this section:

A. The number of animals designed for the operation;

B. The waste handling plan and general layout of the operation;

C. The location and number of acres of the operation;

D. Name, address, and telephone number of registered agent;

E. Notice that the department will accept written comments for a thirty (30)-day period. The thirty (30)-day notice period will begin on the day the construction permit application is received by the department;

F. The scheduled date the operation intends to submit a construction permit to the department; and

G. The address of the department office receiving comments.

2. The neighbor notice shall be provided to the following:

A. The department's Water Pollution Control Program;

B. The county governing body; and

C. All adjoining owners of property located within one and one-half (1 1/2) times the buffer distances specified in subsection (3)(B). Distances are to be measured from the nearest animal confinement building or waste holding basin to the adjoining property line.

3. The construction permit applicant shall submit to the department proof the above notification has been sent.

4. All concentrated animal feeding operations shall submit to the department a map, approximate scale of one inch equal one thousand feet (1" = 1,000'), or a two (2) times enlarged copy of a United States Geological Survey 7.5 minute quadrangle map. The map shall show the operation layout, buffer distances, and property owners within one and one-half (1 1/2) times the buffer distance.

5. The neighbor notice will expire if a construction permit application has not been received by the department within twelve (12) months of initiating the neighbor notice requirements.

(D) Inspections.

1. Permits shall require the following minimum visual inspections:

A. Weekly inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the process wastewater storage;

B. Daily inspection of water lines, including drinking water or cooling water lines;

C. Weekly inspections of the manure, litter, and process wastewater impoundments. The inspection will note the level in liquid impoundments as indicated by the depth marker; and

D. Periodically conduct leak inspections on equipment used for land application of manure or process wastewater.

2. Permits shall require that any deficiencies found as a result of inspections be corrected as soon as possible.

(E) Record Keeping.

1. Permits shall require that the permittee maintain the following records for the production area for a period of five (5) years from the date they are created:

A. A copy of the permit application including the nutrient management plan;

B. Records documenting the visual inspections performed as required in 10 CSR 20-6.300(3)(D) above;

C. Weekly records of the depth of the manure and process wastewater in the liquid impoundments as indicated by the depth marker;

D. Records documenting any actions taken to correct deficiencies. Deficiencies not corrected within thirty (30) days shall be accompanied by an explanation of the factors preventing immediate correction;

E. Records of mortalities management and practices used by the operation which verify compliance with 10 CSR 20-6.300(3)(A)5. above;

F. Records of the date, time, and estimated volume of any overflow;

G. Records of the date, recipient name and address, and approximate amount of manure, litter, or process wastewater transferred to another person.

2. Permits shall require that the permittee maintain the following records for the land application area for a period of five (5) years from the date they are created:

A. Expected crop yields;

B. The date(s) manure, litter, or process wastewater is applied to each field;

C. Weather conditions at time of application and for twenty-four (24) hours prior to and following application;

D. Test methods used to sample and analyze manure, litter, process wastewater, and soil;

E. Results from manure, litter, process wastewater, and soil sampling;

F. Explanation of the basis for determining manure application rates, as provided in the technical standards;

G. Calculations showing the total nitrogen and phosphorus to be applied to each field, including sources other than manure, litter, or process wastewater;

H. Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied;

I. The method used to apply the manure, litter, or process wastewater;

J. Date(s) of manure application equipment inspection.

(F) Annual Reports.

1. Permits shall require the submission of an annual report that includes:

A. The number and type of animals confined at the operation;

B. Estimated amount of total manure, litter, and process wastewater generated by the operation in the previous twelve (12) months;

C. Estimated amount of total manure, litter, and process wastewater transferred to other persons by the operation in the previous twelve (12) months;

D. Total number of acres for land application covered by the nutrient management plan;

E. Total number of acres under control of the operation that were used for land application of manure, litter, and process wastewater in the previous twelve (12) months;

F. Summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous twelve (12) months, including date, time, and approximate volume;

G. A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

(G) Best Management Practices (BMPs)—Each CAFO subject to this section that land applies manure, litter, or process wastewater, must do so in accordance with the following practices:

1. Permits shall require a nutrient management plan be developed and implemented according to the requirements of 10 CSR 20-6.300(5). The plan must also incorporate the requirements of paragraphs (3)(G)2. and (3)(G)3. based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the field and that addresses the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters. CAFOs with coverage under a general operating permit issued prior to February 27, 2009, must have their nutrient management plans developed and implemented by February 23, 2011. All other CAFOs that receive either a general or site-specific operating permit after February 27, 2009, must have a nutrient management plan developed and implemented upon the date of operating permit coverage.

2. Manure, litter, or process wastewater shall not be land applied closer than one hundred feet (100') from any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters unless the operation complies with one (1) of the following compliance alternatives:

A. For surface and subsurface applications, a setback consisting of a thirty-five foot (35')-wide vegetated buffer where applications of manure, litter, or process wastewater are prohibited; or

B. The CAFO demonstrates that a setback or buffer is not necessary because implementation of alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the one hundred foot (100')-setback.

3. Application rates for manure, litter, and other process wastewater applied to the land application area must minimize phosphorus and nitrogen transport from the field to surface waters in compliance with the technical standards for nutrient management established by the Clean Water Commission. Such technical standards for nutrient management shall—

A. Include a field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters, and address the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters; and

B. Include appropriate flexibilities for any CAFO to implement nutrient management practices to comply with the technical standards, including consideration of multi-year phosphorus application on fields that do not have a high potential for phosphorus runoff to surface water, phased implementation of phosphorus-based nutrient management, and other components, as determined appropriate by the director.

C. Require that manure be analyzed a minimum of once annually for nitrogen and phosphorus content, and soil be analyzed a minimum of once every five (5) years for phosphorus content. The results of these analyses are to be used in determining application rates for manure, litter and other process wastewater.

(H) Class IA Requirements.

1. The owner or operator of any Class IA concentrated animal feeding operation utilizing flush wet handling systems shall employ one (1) or more persons who shall visually inspect the animal waste wet handling facility and holding basins. Visual inspections shall be made at least every twelve (12) hours with a deviation from the twelve (12)-hour requirement not to exceed three (3) hours. The inspections shall focus on the structural integrity of the collection system and containment structures along with any unauthorized discharges from the flush and wet handling systems. Records shall be maintained by the facility for a minimum of three (3) years on forms approved by the department.

2. Any unauthorized discharges by a Class IA concentrated animal feeding operation from a flush or wet handling system that cross the property line of the facility, or enter the waters of the state, shall be reported to the department and to all adjoining property owners of the facility within twenty-four (24) hours.

3. Class IA concentrated animal feeding operations that use wet handling systems shall be required to comply with the following minimum permit related requirements:

A. Applications for permits shall include a list of mailing addresses for all adjacent property owners and applicable planning and zoning agencies;

B. Permittee shall retain the services of a full-time resident engineer during lagoon seal construction and compaction tests for inspection and certification;

C. Barrel tests to determine lagoon leakage rates shall be conducted on all newly constructed lagoons which have not yet received operating permits. Barrel tests shall be conducted in accordance with 10 CSR 20-8.020(16)(B);

D. The department shall be notified at least seven (7) days prior to the compaction and barrel testing dates to allow observation of the tests;

E. Permits shall require operational monitoring and reporting, including—

(I) Nutrient levels in wastewater that is land applied;

(II) Information on land application sites, including dates wastewater or manure is applied, application rates per acre, application rates per hour, field slopes, locations, vegetation grown, crop yields, soil moisture, and rainfall received;

(III) Water level measurements in storage structures;

(IV) Operation of land application equipment; and

(V) Other pertinent information;

F. Permits shall require environmental monitoring and reporting, including—

(I) Nitrogen, phosphorus, and potassium levels in soils;

(II) Wastewater discharges that occur;

(III) Storm water runoff from the property;

(IV) In-stream monitoring of any waters of the state that adjoin or pass through the property; and

(V) Groundwater monitoring wells, if determined to be necessary; and

G. Permits shall include a reopener clause to allow modification of the permit should future environmental data determine such is needed.

(4) Design Standards.

(A) Process wastewater systems shall be designed in accordance with the design standards rule under 10 CSR 20-8; and

(B) Other limitations shall be in accordance with 10 CSR 20-7.015(9)(G). Effluent limits for subsurface waters shall be in accordance with 10 CSR 20-7.015(7).

(C) The provisions addressing effluent limitations as set forth in 40 CFR Part 412, Subpart A through Subpart D, July 1, 2007 as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954 are incorporated by reference, except for 412.46(d). This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 20-6.300 shall apply in this rule in addition to any other modifications set forth in this rule.

(D) Open surface liquid impoundments shall have a depth marker that clearly indicates the upper operating level of the impoundment and the lower operating level, if applicable, of the impoundment.

(E) Secondary Containment Structure.

1. All Class IA concentrated animal feeding operations utilizing flush systems shall have a containment structure(s) or earthen dam(s).

2. The containment structure(s) or earthen dam(s) shall be sized to contain a minimum volume equal to the maximum capacity of flushing in any twenty-four (24)-hour period from all gravity outfall lines, recycle pump stations, and recycle force mains.

3. Construction permit(s) shall be required for the design and construction of the containment structures for all new facilities.

(F) All Class IA concentrated animal feeding operations utilizing flush systems shall have an electronic or mechanical shut-off in the event of pipe stoppage or backflow. For new facilities, the shut-off shall be included as part of the construction permit application.

(5) Nutrient Management Plans—Nutrient management plans must, to the extent applicable—

(A) Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

(B) Ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

(C) Ensure that clean water is diverted, as appropriate, from the production area;

(D) Prevent direct contact of confined animals with waters of the state;

(E) Ensure that chemicals and other contaminants handled onsite are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;

(F) Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the state;

(G) Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;

(H) Establish protocols to land apply manure, litter, or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and

(I) Identify specific records that will be maintained to document the implementation and management of the minimum elements described in subsections (A) through (H) of this section;

(6) Closure of Waste Storage Structures.

(A) Facilities that cease operation, or plan to close lagoons and other waste storage structures, shall comply with the requirements in this section—

1. Class I concentrated animal feeding operations which cease operation shall continue to maintain a valid operating permit or until all lagoons and waste storage structures are properly closed according to a closure plan approved by the department; and

2. Other concentrated animal feeding operations that cease operation shall either close the waste storage structures in accordance with the closure requirements in subsection (6)(B) of this

rule or shall continue to maintain all storage structures so that there is not a discharge to waters of the state.

(B) Closure Requirements.

1. Lagoons and waste storage structures shall be closed by removal and land application of all wastewater and sludge;

2. The removed wastewater and sludge shall be land applied at agricultural rates for fertilizer not to exceed the maximum nutrient utilization of the land application site and vegetation grown and shall be applied at controlled rates so that there will be no discharge to waters of the state; and

3. After removal and proper land application of wastewater and sludge, the earthen basins may be demolished by removing the berms, grading, and revegetation of the site so as to provide erosion control, or the basin may be left in place for future use as a farm pond or similar uses.

(7) Concentrated Animal Feeding Operation Indemnity Fund.

(A) Class IA concentrated animal feeding operations utilizing flush systems, shall pay an annual fee of ten cents (10¢) per animal unit to the department for deposit in the Concentrated Animal Feeding Operations Indemnity Fund.

(B) The annual fee shall be based upon the animal unit permitted capacity of the facility.

(C) The annual fee shall be collected each year for ten (10) years on the anniversary date of the operating permit. For facilities permitted after June 25, 1996, the annual fee shall commence on the first anniversary of the operating permit. The annual fee for facilities permitted prior to June 25, 1996, shall commence on the first full year anniversary of the permit following June 25, 1996.

(D) In the event the department determines that a Class IA facility has been successfully closed by the owner or operator, all moneys paid by such operations into the Concentrated Animal Feeding Operation Indemnity Fund shall be returned to the operation. In no event, however, shall this refund exceed the unencumbered balance in the Concentrated Animal Feeding Operation Indemnity Fund.

(E) The fees referenced in section (7) shall be paid by a check or money order and made payable to the State of Missouri, Concentrated Animal Feeding Operation Indemnity Fund. In the event a check used for the payment of operating fees is returned to the department marked insufficient funds, the person forwarding the check shall be given fifteen (15) days to correct the insufficiency.

(F) Fees shall be submitted to Department of Natural Resources, Water Pollution Control Program, Permit Section, PO Box 176, Jefferson City, MO 65102.

(G) Each payment shall identify the following: state operating permit number, payment period, and permittee's name and address. Persons who own or operate more than one (1) operation may submit one (1) check to cover all annual fees, but are responsible for submitting the appropriate information to allow proper credit for each permit file account.

(H) Annual fees are the responsibility of the permittee. Failure to receive a billing notice is not an excuse for failure to remit the fees.

*[(6)]***(8)** Letters of Approval.

(A) General Requirements.

1. Animal feeding operations that are not otherwise required to obtain a permit under this rule, may apply for a letter of approval on a voluntary basis.

2. As the department does not examine structural features of design or the efficiency of mechanical equipment, the issuance of a letter of approval does not include approval of these features.

(B) Letters of approval shall require the following:

1. The facility shall be constructed and operated so that the wastewater or wastewater treatment residuals will be land applied to provide beneficial use in agriculture or silviculture;

2. Class II facilities, applying for the letter of approval shall be designed, constructed**,** and operated so as not to discharge through a man-made conveyance; except for those caused by rainfall events exceeding the twenty-five (25)-year, twenty-four (24)-hour rainfall event; and

3. Facilities smaller than Class II applying for the letter of approval shall use best management practices approved by the department.

(C) The letter of approval may be modified or revoked for causes including, but not limited to, the following:

1. Violation of any term or condition of the letter of approval;

2. A misrepresentation or failure to fully disclose all relevant facts in obtaining a letter of approval;

3. A change in the operation, size or capacity of the approved facility; or

4. A change in the agreement between the operating authority and the landowner(s).

(D) When an operating permit is required under this rule or under 10 CSR 20-6.010 for any activity, no-discharge facilities at the same operating location shall be incorporated into the operating permit and a letter of approval shall not be issued.

(E) Applications for Letters of Approval.

1. An application for, or renewal of, a construction letter of approval or operating letter of approval shall be made on forms provided by the department. The applications may be supplemented with copies of information submitted for other federal or state permits.

2. All applications must be signed as follows:

A. The chief executive officer of a corporation or by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by an individual having overall responsibility for environmental matters at the facility;

B. A general partner or the proprietor, respectively, of a partnership or sole proprietorship; or

C. A principal executive officer of a municipal, state, federal**,** or other public facility or an individual having overall responsibility for environmental matters at the facility.

3. Incomplete applications.

A. When an application is incomplete or otherwise deficient, the applicant shall be notified of the deficiency and given a requested response time to complete the application. Processing of the incomplete application will be discontinued until the applicant has corrected all deficiencies.

B. In the event the department does not receive a response within sixty (60) days after the applicant has been notified of an incomplete application, the application will be closed and returned to the applicant. The applicant shall submit a complete new application in order to receive further consideration of the proposal.

4. The department will act by either issuing or denying the construction or operating letter of approval application within ninety (90) days of receipt of a complete application. Reasons for a denial shall be given to the applicant in writing.

5. In the event the department fails to act within ninety (90) days of receipt of a complete application by either issuing or denying a letter of approval, the applicant may proceed with construction. However, changes may be necessary by the department to the design and proposed operation of the facility prior to issuing an operating letter of approval.

6. Continuing authorities for letters of approval.

A. All applicants for construction or operating letters of approval shall show as part of their application that a permanent entity exists which will serve as the continuing authority for the operation, maintenance and modernization of the facility for which the application is made. Construction and operating letters of approval

shall not be issued unless the applicant provides the proof to the department and the continuing authority has submitted a statement indicating acceptance of the facility.

B. Continuing authorities which can be issued letters of approval to collect and/or treat or dispose of process wastes under this regulation are listed under 10 CSR 20-6.010.

(F) Construction Letters of Approval.

1. Applications for construction letters of approval shall be made on a form provided by the department at least ninety (90) days before the planned start of construction.

2. A separate application shall be submitted for each facility intended for treatment or disposal of process wastes. However, one (1) application may cover all facilities where there are multiple facilities at a single operating location.

3. An application shall consist of the following items:

A. An application form;

B. An engineering report along with plans and specifications shall be submitted governing the design of the waste handling system. All shall be affixed with a professional engineer's seal;

C. An operation and maintenance plan for collection, storage and land application of process wastes; and

D. Other information necessary to determine compliance with the Missouri Clean Water Law and these regulations as required by the department.

4. Expiration of construction letters of approval.

A. Construction letters of approval shall expire one (1) year from the date of issuance unless the owner or authorized representative applies for an extension. An applicant for the extension shall show that there have been no substantial changes in the original project and file for extension thirty (30) days prior to expiration of the approval. Only one (1) extension will be given.

B. When a construction approval is issued for a project for which the construction period is known in advance to require longer than one (1) year from the date of issuance, the department may issue an approval allowing a period of time greater than one (1) year upon a showing by the applicant that the period of time is necessary and that no substantial changes in the project will be made without notifying the department. If there are substantial changes, the department may require the applicant to apply for a new construction letter of approval.

C. Construction letters of approval may be issued for a period of less than one (1) year when appropriate.

(G) Operating Letters of Approval.

1. One (1) operating application shall be submitted to cover all nondischarging facilities at a single operating location.

2. Applications for an operating letter of approval shall be made on a form provided by the department and should be filed immediately after the project has been completed. The department shall require that a professional engineer affix his/her seal and certify in writing that the project has been completed in accordance with its approved plans and specifications or submit engineering certification of as-built plans and specifications and other supporting documents listed in subsection *[(6)(F)]***(8)(F)**.

3. Obtaining a letter of approval from the department shall not relieve the operator of any requirement to comply with any local or federal laws or regulations.

4. The operating letter of approval will normally be issued to the owner for the life of the facility or until ownership changes. The approval may be issued for a shorter period when appropriate.

5. The owner shall advise the department when ownership changes, when the facility is closed or when other significant changes are made to the facility that would require updating of the approval.

(H) Transfer of Letters of Approval.

1. Unless a permit is required under section (2), an operating letter of approval may be transferred upon submission to the department of an application to transfer signed by a new owner or other continuing authority or responsible party.

2. The letter of approval shall automatically terminate if a transfer application is not submitted within ninety (90) days after the ownership change.

3. Within sixty (60) days of receipt of a transfer application, the department shall notify the new applicant that the letter of approval is transferred or revoked. If the department fails to notify within this time frame, the new applicant will be considered the new owner or responsible party.

4. Construction letters of approval are not transferable. If ownership of a facility under construction changes, the new owner shall apply for a new construction letter of approval following the procedures in subsection *[(6)(F)]***(8)(F)**.

(I) Terms and Condition of Letters of Approval.

1. All waste, wastewater, sludge residuals**,** and by-products shall be handled and disposed so that there is no discharge to waters of the state except for surface discharges from nonpoint sources which use approved best management practices. There shall be no discharges to subsurface waters.

2. An animal feeding operation for which an operating letter of approval has been issued shall not discharge to waters of the state except for a discharge caused by rainfall events exceeding the twenty-five (25)-year, twenty-four (24)-hour rainfall event. If an unauthorized discharge occurs, the letter of approval is void. The owner must immediately eliminate any discharge to waters of the state and any substantial threat of future discharges or shall apply for an operating permit.

3. The operating letter of approval shall automatically become invalid upon the issuance of an operating permit.

4. The letter of approval may be modified, reissued or terminated upon notification from the department as necessary to protect waters of the state or to assure compliance with the Missouri Clean Water Law.

5. The letter of approval shall require that the facility be designed and operated to provide a beneficial use in accordance with subsection *[(6)(B)]***(8)(B)**.

6. The letter of approval pertains only to the Missouri Clean Water Law and regulations. It does not apply to other laws and regulations.

7. For the purpose of inspecting, monitoring or sampling the treatment or disposal facility for compliance with the Clean Water Law and these regulations, the owner or operator of the letter of approval facility shall allow authorized representatives of the department, upon presentation of credentials and at reasonable times to—

A. Enter upon the premises in which a treatment or disposal facility is located or in which any records are required to be kept under terms and condition of the letter of approval;

B. Have access to or copy any records required to be kept under terms and conditions of the letter of approval;

C. Inspect any monitoring equipment or monitoring method required in the letter of approval;

D. Inspect any collection, treatment**,** or land application facility covered under the letter of approval; and

E. Sample any waste, wastewater, sludge, residuals**,** or by-products at any point in the collection system or treatment process.

8. Facility expansions, production increases or process modifications which will result in new or different process waste characteristics must be reported sixty (60) days before the facility or process modification begins. Notification may be accomplished by application for a new letter of approval, or if the change will not significantly alter disposal limitations specified in the letter of approval, by submission of notice of the change to the department.

9. Solid wastes or hazardous waste shall not be introduced into the facility or otherwise land applied or disposed except in accordance with the Missouri Solid Waste Management Law and regulations under 10 CSR 80 and the Missouri Hazardous Waste Management Law and regulations under 10 CSR 25.

10. All reports required by the department shall be signed by a person designated in this rule or a duly authorized representative a follows:

A. The signature authorization may be delegated if the representative so authorized is responsible for the overall operation of the facility and the authorization is made in writing by a person designated in subsection *[(6)(E)]***(8)(E)** of this rule and is submitted to the department; and

B. Any changes in the written authorization which occur after the issuance of a letter of approval shall be reported to the department by submitting a new written authorization which meets the requirements of paragraph *[(6)(I)12.]***(8)(I)12**.

11. New confinement operations shall comply with the design standards in subsection**s** *[(2)(C)]***(4)(A)–(B)** of this rule; and

12. Other terms and conditions may be incorporated into letters of approval if the department determines they are necessary to assure compliance with the Clean Water Law and regulations.

*AUTHORITY: sections 640.710 and 644.026, RSMo [1997] **2000**. Original rule filed June 1, 1995, effective Jan. 30, 1996. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed July 9, 1998, effective March 30, 1999. Amended: Filed May 12, 2008.*

PUBLIC COST: This proposed amendment will cost the Department of Natural Resources thirty-one thousand three hundred forty-three dollars and thirty-nine cents ($31,343.39) in the aggregate. This total estimated aggregate cost to the department is a multi-year aggregate. It is anticipated that this 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.

PRIVATE COST: This proposed amendment will cost Concentrated Animal Feeding Operations, (CAFOs), seventy thousand seven hundred fifty dollars ($70,750) in the aggregate. This total estimated aggregate cost to the operations is a multi-year aggregate. It is anticipated that this cost will recur for the life of the rule, may vary with inflation and increase at the rate projected by the Legislative Oversight Committee.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Darrick Steen, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to derrick.steen@dnr.mo.gov. Public comments must be received by September 17, 2008. The public hearing is scheduled at a meeting of the Clean Water Commission to be held at 9:00 a.m., on September 10, 2008, in The Q Hotel and Spa, 560 Westport Road, Kansas City, Missouri 64111.

FISCAL NOTE
PUBLIC COST

I. Department Title: Department of Natural Resources
Division Title: Clean Water Commission
Chapter Title: Water Quality

Rule Number and Name:	**10 CSR 20-6.300 Concentrated Animal Feeding Operations**
Type of Rulemaking:	Proposed Rule Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	**$31,343.39 for .36 FTE**

III. WORKSHEET

NPDES Permit Fee Fund Expenses	**FY 2009 (4 Months)**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**
Salaries (Based on EE II Range 29 Step L - .36 FTE)	($14,732.00)	($18,209.00)	($18,755.00)	($19,317.65)	($19,897.18)	($20,494.09)
Fringe Benefits @ 45.26% * .36 (Based on FY08 Rate	($6,668.00)	($8,241.00)	($8,489.00)	($8,743.67)	($9,005.98)	($9,276.16)
Equipment and Expense (.36 of Standard EE Coding)	($2,003.00)	($2,063.00)	($2,126.00)	($2,189.78)	($2,255.47)	($2,323.14)
TOTAL FUND COSTS - ALL CATEGORIES	**($23,403.00)**	**($28,513.00)**	**($29,370.00)**	**($30,251.10)**	**($31,158.63)**	**($32,093.39)**
(743 Total Hours / 2,080 hours [1 FTE] = .36 FTE)						
NPDES Permit Fee Fund Revenue	**FY 2009 (4 Months)**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**
CAFO Permit Fees <55 lbs (5 new permits per year)	$750.00	$0.00	$0.00	$0.00	$0.00	$750.00
(5 Apps * $150 Fee Paid Every Five Years)						
Total Permit Fee Revenue:	**$750.00**	$0.00	$0.00	$0.00	$0.00	**$750.00**

NPDES Permit Fee Fund Revenue	FY 2009 (4 Months)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Estimated Net Effect on Permit Fee Fund:	($22,653.00)	($28,513.00)	($29,370.00)	($30,251.10)	($31,158.63)	($31,343.39)
Estimated Net Effect on Permit Fee Fund Total Revenue:	**($22,653.00)**	($28,513.00)	($29,370.00)	($30,251.10)	($31,158.63)	**($31,343.39)**

Fiscal impact derived from the three primary components in the proposed amendment –

* New permit application requirements, due to a lower animal threshold change including swine <55 lbs., i.e. estimated review of 5 applications in the 1st year of a 5-year construction permit or 5 x 20 hrs. per application = 100 hrs. per year

** New loss assessment requirements for phosphorus, reducing the load in surface water to comply with the new Nutrient Management Plan criteria, i.e. estimated review of 60 applications or 60 x 5 hrs. per application = 300 hrs. per year

*** New annual reporting requirements, i.e. reviewing 1/3 of an estimated 520 permits per year or .333 x 520 x 2 staff hrs. per report = 346 hrs. per year

**** Total hours of staff review required = 746 (746 Total Hours / 2,080 hours [1FTE] = 3.6 FTE)

NPDES Permit Fee Fund Revenue for an estimated 5 operating permit applications, i.e. 5 permit applications. x $150 fee, paid every five years or $750.00.

IV. ASSUMPTIONS

The duration of the proposed rule is indefinite. There is no sun-set clause. Costs imposed by the proposed rule are shown on an annual basis. It is assumed that additional years will be consistent with the assumptions used to calculate the annual costs identified in this fiscal note.

The department must review annual reports of permit operators to ensure compliance with the new federal requirements. These reviews of new application requirements, the new phosphorus loss assessment and Nutrient Management Plan (NMP) criteria and review of annual reports, requires additional staff hours.

For the department, the employee costs are calculated using the annual salary multiplied by the FY 2008, 45.26% fringe benefit rate. 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. Equipment and expense are calculated according to a standard

code for FY2008, Environmental Engineer II. First-year equipment and expense costs reflect the initial office set-up for the employee.

It is anticipated that all costs are expected to increases at the rate projected by the Legislative Oversight Committee. A 3% rate of inflation is applied to personnel costs. The FY2009 reflects that portion of the first full fiscal year the rule is effective, or 4 months, and reflects the new permit application requirements.

The Water Protection Program, permitting and engineering section, conducts permit reviews prior to issuing a construction permit. The technical review is conducted by an Engineer II with expertise in environmental engineering analysis.

The public fiscal note for this rulemaking reflects the cost to the department resulting from the technical review and analysis of the estimated five (5) permit applications, new NMP criteria, and the annual reporting requirements, resulting in 746 total hours of staff review. The Estimated Net Effect, $22,653, on the NPDES Permit Fee Fund, is based on the fees collected, $750.00, ($150.00 per permit application), and accruing to fee revenues in the first year and once every five (5) years for operating permit renewals.

* Fiscal impact is based on the new application requirements resulting in increased staff time to review operating permit applications in the first year. The new application requirements, lowering the animal threshold number for swine weighing less than 55 pounds in the animal category for nursery swine, are based on the new federal requirements.

A small number of nursery swine sites, five (5), thought to be operating within the impacted animal number range of 10,000 to 15,000, will be impacted under this proposed rulemaking. No new large nursery swine operations are expected due to current trends in the swine industry.

** The amended rulemaking language includes expanded criteria to comply with the required Nutrient Management Plans (NMPs). An NMP includes the strategies producers use to ensure manure storage and manure application on farms. New requirements in the NMPs will now include plans that require phosphorus loss assessment as well as continuing to assure that surface or groundwater are not adversely affected. This is expected to result in improved manure management to protect water quality due to a greater emphasis on the proper management of animal manure at the production site and on land application sites.

Expanded Best Management Practices (BMPs) include the new phosphorus loss assessment requirement and nutrient management plan criteria necessary to meet minimum federal requirements.

*** Annual reporting requirements are needed to meet the current federal requirements. The department proposes to review one-third of the annual reports, in detail every year with an expectation that every permitted facility will receive a review of their annual report at least once per permit cycle.

These expanded requirements will help Concentrated Animal Feeding Operations (CAFO) to analyze decisions and test results from previous years and make appropriate adjustments to the nutrient management plan to maximize the nutrient benefits.

CAFOs have always been required to submit annual reports to the department. The Environmental Protection Agency has increased its reporting requirements to assure operators comply with new and current regulatory and permit practices.

The cost in the aggregate to the department is estimated to be $31,343.39 to comply with this rulemaking. This aggregate cost may be considered a multi-year aggregate due to the cyclical nature of the permitting process and to accommodate the cyclical nature of the rule requirements. The revenue collected based on fees paid to renew the estimated number of operating permits in the first year, and the revenue collected based on fees paid to renew every (5) years thereafter, is the same, absent a change in the fees.

The Estimated Net Effect to the department's NPDES (National Pollutant Discharge Elimination System) Permit Fee Fund in FY2009 is $22,653.00. This is the cost to the department for staff salaries, expense and equipment and fringe benefits less permit application fee revenue.

The Estimated Net Effect on the department's Permit Fee Fund in FY2010 is $28,513.00, in FY2011 is $29,370.00, in FY2012 is $30,251.10, in FY2013 is $31,158.63, and in FY2014 is $31,343.39. FY2014 reflects the multi-year aggregate cost which will recur every 5 years.

**** The FY2009 is a partial fiscal year reflecting the four (4) months the rulemaking is in effect during the first year. Approximately 693 hours of staff review are possible in the first year. Of the total hours needed for review, 746, there remain approximately 52 hours that cannot be worked within the usual 40 hour week. As a result, 12 hours, or 2.4 additional hours per day in the final week of the 4 month period, are required to complete the reviews.

FISCAL NOTE
PRIVATE COST

I. Department Title: Title 10 – Department of Natural Resources
Division Title: Division 20 – Clean Water Commission
Chapter Title: Chapter 6 – Permits

Rule Number and Title:	**10 CSR 20-6.300 Concentrated Animal Feeding Operations**
Type of Rulemaking:	Proposed Rule Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
5 Concentrated Animal Feeding Operations (CAFOs) General Operating Permits	**112 – Animal Production**	**$750**
500 CAFO Permit Sampling Cost	**112 – Animal Production**	**Total Cost: $70,000**
5 CAFO Permit Fee Applications Plus Sampling Cost for 500 CAFOs	**112 – Animal Production** **112 – Animal Production**	**Total Aggregate: $70,750**

II. WORKSHEET

Private Entity Costs - CAFO Facilities	**FY 2009 (4 Months)**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**
CAFO Permit <55 lbs (NPDES Permit Fee - $150 * $5 = $750)	($750)	$0	$0	$0	$0	($750)
CAFO General Permit - Sampling Costs for 500 CAFO Facilities (500 * $140 = $70,000)	$0	($70,000)	($70,000)	($70,000)	($70,000)	($70,000)
ESTIMATED NET FISCAL EFFECT FOR PRIVATE INDUSTRY:	**($750)**	**($70,000)**	**($70,000)**	**($70,000)**	**($70,000)**	**($70,750)**

Fiscal impact based on three primary components –

* New application requirement, lowering the animal threshold change to swine <55 lbs. The 5 new general operating permits x the $150 fee, is $750.

** Phosphorus assessment requirement to reduce the phosphorus load in surface water – CAFO (Concentrated Animal Feeding Operations) operators with general operating permits are expected to collect an average of 6 soil samples, $10 per sample and 2 manure samples, $40 per sample. Based on total sampling cost of $140 per CAFO operator, for the estimated 500 CAFO general operating permits the cost is $70,000 per year.

CAFO operators that have a site specific permit conduct the sampling and therefore will not incur any additional cost.

IV. ASSUMPTIONS

The duration of the proposed rule is indefinite. There is no sun-set clause. Costs imposed by the proposed rule are shown on an annual basis. It is assumed that additional years will be consistent with the assumptions used to calculate the annual cost identified in this fiscal note.

* The worksheet estimates cost associated with the new application requirement that lowers the animal threshold to less than 55lbs.

Swine < 55 lbs category change –
Facilities that were not previously permitted due to the lowering of the classification range may be required to obtain a permit. An estimated five (5) facilities will need to get a permit due to size.

** The worksheet estimates the cost associated with the additional sampling requirements for soil and manure for those having general operating permits. The required samples are taken in the fall. There are no sampling costs incurred during the last 4 months of FY 2009 of the effective rule.

Phosphorus assessment –
All general permit operations will eventually be required to complete a phosphorus assessment on the land used for land application. The owner will need to conduct routine soil and manure testing ensuring the nutrients are being applied at appropriate rates. On average, 6 soil samples will be necessary per year and 2 manure samples will be necessary per year.

It is anticipated that the total sampling cost will recur for the life of the rule.

The aggregate cost, i.e. an annualize aggregate, or total lifetime cost, to privately owned Concentrated Animal Feeding Operations (CAFOs) for general operating permits fee applications ($750.00) and sampling ($70,000) is $70,750.

The aggregate cost, $70,750, may be considered a multi-year aggregate since fees paid to renew the estimated number (5) of operating permits in the first year, and the fees paid to renew every (5) years thereafter, are the same, absent a change in the fees. First-year costs reflect the permit fee application. The aggregate cost may be considered a multi-year aggregate due to the cyclical nature of the permitting process and to accommodate the cyclical nature of the rule requirements.

The Estimated Net Effect on Private Industry in FY2009 is $750. Given that sampling is done in the fall, no sampling costs occur during the first four (4) months the rule is effective.

The Estimated Net Effect on Private Industry in FY2010 is $70,000, in FY2011 is $70,000, in FY2012 is $70,000, in FY 2013, is $70,000, and in FY2014 is $70,750. FY2014 reflects the multi-year aggregate cost which will recur every 5 years.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure

PROPOSED AMENDMENT

12 CSR 10-26.010 Bona Fide Established Place of Business. The director proposes to amend the Purpose, sections (1) through (3), and sections (5) through (7).

PURPOSE: Section 301.560, RSMo, establishes the requirements for a bona fide established place of business for boat dealers, boat manufacturers, motor vehicle dealers, wholesale motor vehicle dealers, motor vehicle manufacturers, public motor vehicle auctions and wholesale motor vehicle auctions. This amendment eliminates provisions already in the statute, clarifies existing provisions, incorporates trailer dealers and manufacturers as required by Senate Bill 82 (2007), and requires each dealer location to be issued a separate license.

PURPOSE: The department must determine that applicants/licensees such as boat dealers, boat manufacturers, ***trailer dealers, trailer manufacturers,*** *motor vehicle dealers, wholesale motor vehicle dealers, motor vehicle manufacturers, public motor vehicle auctions***,** *and wholesale motor vehicle auctions maintain a bona fide established place of business. This rule establishes criteria that may be used in determining if this requirement has been met.*

(1) In order to constitute a bona fide established place of business, hereinafter referred to as a "business location," for boat dealers, boat manufacturers, motor vehicle dealers **other than dealers who sell only emergency vehicles**, motor vehicle manufacturers, wholesale motor vehicle dealers, public motor vehicle auctions**, trailer dealers, trailer manufacturers, powersport dealers,** and wholesale motor vehicle auctions—

(A) *[The business location must be a permanently enclosed building or structure either owned or leased.]* The business location must be actually occupied and primarily used in whole, or in clearly designated and segregated part, as a place of business by the licensee for the manufacturing, selling, auctioning, bartering, trading, **servicing,** or exchanging of motor vehicles, trailers**,** *[or]* boats**, or powersports**.

1. Example: An applicant for a motor vehicle dealer license maintains a building or structure primarily used in the operation of a business other than the sale or exchange of motor vehicles. As a sideline, the applicant desires to engage in the business of selling motor vehicles. The building or structure used primarily for some other business, other than the selling or exchanging of motor vehicles, does not qualify as a bona fide established place of business for the selling of motor vehicles unless an area is clearly designated and segregated and records are separately maintained for the purpose of selling, bartering, trading, **servicing,** or exchanging of motor vehicles or trailers;

(C) *[The licensee must maintain at the business location the books, records, files and other items required and necessary to conduct the business. Such items shall be accessible for inspection during regular business hours.]* If a licensee is also licensed as an auction, the auction records must be kept separately from the dealer records;

(D) *[Unless otherwise specified, t]***T**he business location of *[a]* licensee**s** *[other than a wholesale dealer or boat dealer]* must also contain an area or lot which shall not be a public street upon which *[one (1) or more]* **multiple** vehicles may be displayed.

1. The display area or lot must be of sufficient size to physically accommodate vehicles of the type which the licensee is licensed to sell.

2. The display area or lot must be used exclusively for display by the licensee and must be situated to prevent confusion or uncertainty concerning its relationship to the licensee.

3. The display area or lot must provide unencumbered visibility from the nearest public street of the vehicles being sold by the licensee.

4. Auctions that are also licensed as dealers must maintain a display area or lot separate from the dealership lot for auction vehicles.

5. A licensee in more than one (1) class of business may use the same building and display area for all classes so long as each use is separately and clearly marked. Records must be maintained separately and separate signs as specified in subsection (1)(E), must be displayed;

(E) *[A l]***L**icensee**s** must display an exterior sign*[, if applicable.*

1. A licensee except a wholesale motor vehicle dealer must display an exterior sign] that shall be of a permanent nature, erected on the exterior of the structure or on the display area, constructed or painted and maintained to withstand reasonable weather conditions and the sign must be readable. *[The sign must:*

A. Contain the name of the licensee. The name does not need to be identical to the name appearing on the licensee's license, so long as it is registered as a fictitious name with the secretary of state, is approved in writing by the line-make manufacturer, if applicable, and a copy of the fictitious name registration is provided to the department;

B. Have letters at least six inches (6") in height;

C. Be clearly visible to the public; and

D. Comply with local sign ordinances, if any.]

*[2.]***1.** A temporary sign may suffice during the period of time required to obtain a permanent sign provided the order for construction, purchase**,** or painting has in fact been placed. A copy of the sign order must be submitted with the application along with a picture of the temporary sign.

[3. A public motor vehicle auction licensee shall display, in a conspicuous manner, two (2) additional signs, each of which shall bear the following warning in letters at least six inches (6") high: "Attention Buyers: Vehicles sold at this auction may not have had a safety inspection." The dimensions of each sign shall be at least two feet by two feet (2' × 2'); and

(F) A new motor vehicle franchise dealer's business location shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under the franchiser's warranty.]

(2) The bona fide established place of business of a licensee must be maintained for the entire licensure period. If the bona fide established place of business is not maintained, the licensee must notify the department within ten (10) days and surrender at that time the licensee's temporary permits, license**,** and license plates/certificates of number.

(A) If the licensee intends to relocate prior to the expiration of the license, the department must be informed of such intent at the time the license is surrendered. If the business is then certified at a new location **within the same licensure year**, the department will return the temporary permits, license plates/certificates of number and issue a new license reflecting the new location for no additional fee. The department or its representative reserves the right to determine the existence of a bona fide established place of business at any time.

(3) A licensee who changes its business location during the licensure year must notify the department of that change prior to operating at the new site. The following must be submitted to the department:

(A) A new application certified by authorized law enforcement *[that the new location meets the requirements of a bona fide established place of business]*. "Change of Address" must be indicated at the top of the application.

1. If the business changes locations ninety (90) days or less before the expiration of the current license, a renewal application reflecting the new address should be filed instead of a change of address.

2. If the location change is not effective immediately upon filing the renewal application, a letter indicating the effective date of the address change must accompany the renewal application; and

(4) If a licensee changes the business name during the licensure year, the licensee must notify the department of the name change prior to operating under the new name. The following must be submitted to the department:

(C) A corporate surety bond, bond rider, or revision to the irrevocable letter of credit that reflects the licensee's new business name**, if applicable**.

[(5) When a licensee changes its business name and/or location, it must also file the change with the Office of the Secretary of State.]

*[(6)]***(5)** Each business location where a licensee auctions, manufactures, sells**,** or displays motor vehicles, trailers**,** *[or]* boats**, or powersports** must be licensed separately with the department **and pay a separate licensure fee**. *[However, when a licensee has more than one (1) location in the same city or with the same city mailing address, the licensee may operate under the same name and license number by filing a proper application for each business location with the department and maintaining a bona fide place of business at each location. No additional fees are required for the additional locations in these two (2) cases.]*

*[(7)]***(6)** A licensee may store cars at a storage lot location other than at the licensed business location, provided the department is notified of the storage location and no sales activity occurs on the storage lot.

AUTHORITY: section 301.553, RSMo 2000 and ***section*** *301.560, RSMo Supp. [2002]* ***2007****. Original rule filed Nov. 1, 1999, effective May 30, 2000. Amended: Filed Aug. 23, 2002, effective Feb. 28, 2003. Amended: Filed May 15, 2008.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate. The Department of Revenue will realize a revenue increase of approximately eighteen thousand three hundred eighty-one dollars and fifty cents ($18,381.50) each year.

PRIVATE COST: This proposed amendment will cost private entities approximately eighteen thousand three hundred eighty-one dollars and fifty cents ($18,381.50) each year.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, 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.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-26.010 Bona Fide Established Place of Business
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	**Estimate the annual cost of compliance with the rule by the affected entities**
Department of Revenue	Costs: None Revenue Increase per Dealer: $189.50 Motor Vehicle Commission Fund: $14,550.00 Highway Fund: $3,831.50 Total Revenue Increase Each Year: $18,381.50

III. WORKSHEET

See assumptions below. There will be a $14,550.00 increase in dealer license fee revenue to the Motor Vehicle Commission Fund each year ($150.00 licensure fee x 97 dealers). There will be a $3,831.50 increase in dealer plate revenue to the Highway Fund each year ($39.50 additional plate fee for initial plate x 97 dealers). Total revenue increase is $18,381.50.

IV. ASSUMPTIONS

There are currently 97 dealerships that currently have multiple locations within the same city but only one dealer license. This proposed amendment requires these dealerships to obtain separate licenses for each location and pay the $150.00 licensure fee and initial $50.00 plate fee (versus the $10.50 additional plate fee they pay today), resulting in an increase in revenue to the department of $189.50 per dealership affected. We assume these dealers will not purchase any more dealer plates than they do today, but redistribute the same quantity of plates among their dealerships.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-26.010 Bona Fide Established Place of Business
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule	**Classification by types of the business entities which would likely be affected**	**Estimate the annual cost of compliance with the rule by the affected entities**
97 motor vehicle dealers	Motor vehicle dealers	Costs per dealer: $189.50 Total costs each year: $18,381.50

III. WORKSHEET

This proposed amendment requires 97 dealerships to obtain separate licenses for each location and pay the $150.00 licensure fee and initial $50.00 plate fee (versus the $10.50 additional plate fee), resulting in an increase cost of $189.50 per dealership affected. Total costs per year will be $14,550.00 in dealer license fees ($150.00 licensure fee x 97 dealers) and $3,831.50 in dealer plate fees ($39.50 additional plate fee for initial plate x 97 dealers).Total cost is $18,381.50.

IV. ASSUMPTIONS

Currently, 97 dealerships have multiple locations within the same city but only one dealer license. This proposed amendment requires these dealerships to obtain separate licenses for each location and pay the $150.00 licensure fee and initial $50.00 plate fee (versus the $10.50 additional plate fee), resulting in an increase cost of $189.50 per dealership affected. Total costs per year will be $14,550.00 in dealer license fees ($150.00 licensure fee x 97 dealers) and $3,831.50 in dealer plate fees ($39.50 additional plate fee for initial plate x 97 dealers). Total cost is $18,381.50.We assume these dealers will not purchase any more dealer plates than they do today, but redistribute the same quantity of plates among their dealerships.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure

PROPOSED AMENDMENT

12 CSR 10-26.040 Fees. The director proposes to amend section (1), delete sections (2) and (4), and renumber section (3).

PURPOSE: Section 301.560, RSMo requires the department to determine the licensure fee for motor vehicle, trailer, and boat dealers; motor vehicle, trailer, and boat manufacturers; and public and wholesale motor vehicle auctions. This amendment revises the licensure fee schedule to accommodate the dealer license number categories established by Senate Bill 82 (2007) and eliminates provisions already in the statute.

(1) License fees must be submitted by applicants according to the fee schedule established below **beginning with applications submitted for the 2009 calendar/licensure year**:

(A) Motor Vehicle Dealer *[and/or Manufacturer]* **or Trailer Dealer**	$150
(B) Boat Dealer *[and/]*or Boat Manufacturer	$ 80
(E) Motor Vehicle or Trailer Manufacturer	**$150**

[(2) An additional fifty-dollar ($50) fee must be paid by each applicant for the first dealer license plate or certificate of number. Any additional dealer license plates or certificates of number may be obtained for ten dollars and fifty cents ($10.50) each.]

*[(3)]***(2)** If a license is lost, stolen**,** or destroyed, the licensee may obtain a replacement license for a fee of eight dollars and fifty cents ($8.50).

[(4) When application for a license is made after the first month of a registration cycle, the license fee, the fifty-dollar ($50) fee for the initial dealer license plate and additional plate(s)/certificate(s) of number fees shall be prorated on a twelve (12)-month basis. A renewal applicant is subject to the same fees without proration, regardless of the date the application is received.]

*AUTHORITY: section[s] 301.553, **RSMo 2000** and **section** 301.560, RSMo Supp. [1998] **2007**. Original rule filed Nov. 1, 1999, effective May 30, 2000. Amended: Filed May 15, 2008.*

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 or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, 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 26—Dealer Licensure

PROPOSED RULE

12 CSR 10-26.210 Dealer Seminar Certification Requirements

PURPOSE: Section 301.560, RSMo requires applicants who apply for a used motor vehicle dealer license to complete a department approved educational seminar course before their applications for license are approved. This rule clarifies what constitutes an "approved educational seminar" for licensing purposes and the requirements for seminar providers.

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) An initial application for a used motor vehicle dealer license must be accompanied by proof that the applicant has completed an educational seminar course approved by the department within the last twelve (12) months.

(2) A seminar provider must be a recognized business or school with a lawful presence in the state of Missouri and with demonstrable experience in providing professional education to used motor vehicle dealers. Tangible evidence must be provided that these requirements are met. The provider must submit Form 5110, Application for Dealer Educational Seminar Certification, to be certified by the department. The Application for Dealer Education Seminar Certification, revised March 2008, incorporated by reference, is published by and can be obtained from the Missouri Department of Revenue, PO Box 43, Jefferson City, MO 65105-0043; or on the Department of Revenue's website at http://www.dor.mo.gov/mvdl/motorv/forms/5110.pdf. The Application for Dealer Education Seminar Certification does not include any amendments or additions to the March 2008 edition. A seminar provider must have—

(A) A minimum of two (2) instructors meeting departmental requirements with the knowledge and capability to conduct the required seminar curriculum. A list of certified instructors must be provided to the director;

(B) Staff capable of providing information about the seminars and registering prospective attendees;

(C) An available telephone number, fax line, and Internet access available during normal working hours (Monday through Friday) to enable potential attendees to inquire about and register for seminars;

(D) A minimum of one (1) scheduled seminar per month, which must be posted on the provider's website at least thirty (30) days in advance. The seminar schedule and locations must be publicized by the provider with registration information and necessary forms obtainable through the provider's website.

1. If a scheduled seminar has no registered attendees and the provider opts to cancel, notification must be posted clearly on the provider's website at least forty-eight (48) hours prior to the seminar's scheduled start time.

2. If advanced cancellation notice is not posted as indicated above, a certified instructor must be at the seminar's scheduled location at the scheduled time;

(E) Capability to issue each attendee a certificate of completion at the end of each seminar; and

(F) An accurate and current electronic database of seminar attendees, maintained by the provider for a minimum of one (1) year. The provider must confirm all seminar attendees' identity through display of a non-expired federal or state-issued photo identification card, with the capability to electronically transmit attendee information to the department as required. These records must be available on demand and are subject to audit by the director without prior notice.

(3) Dealer educational seminar curriculum must be presented in a classroom setting for a minimum of six (6) hours and include detailed training regarding compliance with—

(A) Sections 301.550 to 301.573, RSMo, and all rules promulgated by the department to implement, enforce, and administer these statutes;

(B) Federal Trade Commission's Used Car Rule;

(C) Federal Privacy Protection requirements under the Gramm-Leach-Bliley Act;

(D) Truth-in-Lending requirements;

(E) Equal Credit Opportunity Act;

(F) The United States of America Patriot Act;

(G) Federal and state laws and regulations regarding deceptive and unfair trade practices;

(H) Uniform Commercial Code regulations;

(I) U. S. Treasury Department rules and cash reporting requirements; and

(J) Any other federal or state laws regulating the business of selling and financing motor vehicles.

(4) A seminar instructor must provide evidence to the director to verify (1) one of the following minimum qualification requirements is met:

(A) Two (2) years of experience in the motor vehicle dealer industry with expertise in the field of regulatory compliance;

(B) Two (2) years of experience as an assistant dealer seminar instructor;

(C) One (1) year in an appropriate position with a professional organization associated with the automobile dealer business (e.g., Missouri Automobile Dealer's Association instructor or Missouri Independent Automobile Dealer's Association policy writer); or

(D) One (1) year of experience as an investigator dealing with state and federal motor vehicle dealer compliance laws.

(5) Seminar instructors certified by the department must—

(A) Utilize training materials when conducting the seminar;

(B) Incorporate course curriculum into reference/resource manuals to be distributed to attendees and provide periodic updates to ensure current and accurate information applicable to dealer's operations;

(C) Provide instruction using computerized slide presentations and provide worksheets/handouts to each attendee, including compliant sample forms required by state and federal law; and

(D) Make available to the director, upon request, copies of all training materials (manuals, handouts, presentations, etc.) for review.

(6) Seminar providers must recertify by submitting a new Application for Dealer Educational Seminar Certification, Form 5110, to the department by September 1 of each year.

(7) Failure to hold scheduled or rescheduled seminars or maintain acceptable standards of training or providing false information to the director will result in the provider's certification becoming invalid upon notice by the director.

AUTHORITY: sections 301.560 to 301.573, RSMo 2000 and Supp. 2007. Original rule filed May 15, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, 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 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.025 Definitions. The Board of Police Commissioners of the Metropolitan Police Department of the City of St. Louis is amending sections (5) and (6).

PURPOSE: This amendment allows police officers with a metropolitan license to work on private property.

(5) Designated area—The established property owned or leased to which a licensed security person is assigned by his/her employer or contracting company. Generally, the authority of a private security officer exists only within this designated area and applies only to incidents occurring within that area. This includes the term "licensed premises." **Police officers with the St. Louis County Police Department who have a valid metropolitan security license through their agency may work on any private property where security is contracted.**

(6) Firearm*[—]*/Gun**—***[d]***D**ouble action .38 Special caliber revolver only**, or any other firearm approved by the board of police commissioners**.

AUTHORITY: section 84.340, RSMo 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002, effective Aug. 30, 2002. Amended: Filed May 14, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Private Security Division, Sgt. Sherri Smith, 5600 Oakland, Tower "G" 330, St. Louis, MO 63110, FAX: 314-644-9053, or email at slsmith@slmpd.org; with copies to Jane Berman Shaw, General Counsel, Legal Division, St. Louis Metropolitan Police Department, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5611, jshaw@slmpd.org, and Captain Thomas Magnan, Bureau of Professional Standards, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5711, tjmagnan@slmpd.org. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.035 Licensing. The Board of Police Commissioners of the Metropolitan Police Department of the City of St. Louis is amending sections (1), (3), and (8).

PURPOSE: This amendment requires applicants to obtain a security license to work as security officers.

(1) General Procedures. Each applicant must appear in person at the office of the private security section. Each applicant must complete an application form. S/he must provide all information requested in the application for a determination of his/her qualifications to hold a license as a private security officer. Each applicant must present a current letter (no older than ten (10) days) from the intended employer where the proposed employer states an intention to hire the applicant. Prior to an application being processed by the private security section, a criminal history inquiry will be made through the St. Louis Police Department's computer terminal. If the inquiry reveals that the applicant has an open criminal arrest record, s/he will be required to obtain a certified final court disposition or a report from a circuit or prosecuting attorney. If the case is still open, the application process will not be completed until a final disposition is obtained. Police officers from other jurisdictions**, including St. Louis County Police, St. Louis Airport Police, St. Louis Deputy Sheriffs, and St. Louis City Marshals,** serving or acting as private security officers do not possess police powers at the location of their assignments in the City of St. Louis unless licensed by the board of police commissioners of the City of St. Louis.

(A) All St. Louis Airport Police Officers, St. Louis Deputy Sheriffs, and St. Louis City Marshals desiring to obtain a security license to work as security officers in the City of St. Louis will be processed and trained through the St. Louis Metropolitan Police Department Private Security Section.

(B) Municipal police officers who desire to work security in the City of St. Louis must first obtain a valid metropolitan license from the St. Louis Metropolitan Police Department Private Security Section. While working in the City of St. Louis, the officer must display a badge/identification card clearly showing the name of the company for which s/he is working.

(C) Police officers from outside the state of Missouri must first obtain a valid license from the St. Louis Metropolitan Police Department Private Security Section. Applicants will be processed in the normal manner and will be required to complete the security officer training class after a satisfactory background check has been conducted. Police officers from states other than Missouri may not wear their department uniforms while working security in the City of St. Louis.

(3) Issuance/Denial of License. When an applicant has successfully completed the requirements set by the board of police commissioners, the board will issue a license. An applicant may be denied a license for any of the following reasons:

(F) Resigned under investigation, resigned under charges**,** or was discharged from any police force; *[and]*

(G) Has been denied a security license by any agency*[.]***; and**

(H) The employer is not in good standing with the board of police commissioners.

(8) License Renewals. A private security officer's license is valid for one (1) year from date of issue and it must be renewed in the month it expires.

(C) If firearms-qualified, the private security officer wishing to renew a license must provide proof of requalification through an approved firearms course. The private security officer must also submit a urine specimen for drug testing according to the provisions of these rules and regulations**, unless otherwise exempted**.

AUTHORITY: section 84.340, RSMo 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002, effective Aug. 30, 2002. Amended: Filed May 14, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Private Security Division, Sgt. Sherri Smith, 5600 Oakland, Tower "G" 330, St. Louis, MO 63110, FAX: 314-644-9053, or email at slsmith@slmpd.org; with copies to Jane Berman Shaw, General Counsel, Legal Division, St. Louis Metropolitan Police Department, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5611, jshaw@slmpd.org, and Captain Thomas Magnan, Bureau of Professional Standards, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5711, tjmagnan@slmpd.org. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.065 Authority. The Board of Police Commissioners of the Metropolitan Police Department of the City of St. Louis is amending section (1).

PURPOSE: This amendment establishes the arrest powers of a licensed security officer.

(1) Authority. Private security officers have the authority to make an arrest and to search for and seize evidence in connection with the arrest, at the location, and during the time of their assignments, under the same conditions as members of the police force of the City of St. Louis as outlined below:

(F) Off his/her licensed premises but only while escorting employer or employer's designee, by the most direct route, to and/or from a bank or other financial institution for the purpose of making a cash deposit or withdrawal; *[and]*

(G) The authority granted private security officers herein is limited and said limitations shall be strictly construed. It does not permit private security officers to serve as bodyguards, process servers or investigators for attorneys. Operators of security agencies should be aware of these restrictions and should also be aware that violation thereof could result in the suspension or revocation of a private security officer's license by the board of police commissioners*[.]***;**

(H) In specific circumstances, with the consent of the chief of police, uniformed security officers may be empowered to direct traffic on city streets adjacent to their employer's property, provided they have successfully completed a training program in traffic direction and control, sponsored by the Traffic Safety Division of the St. Louis Metropolitan Police Department; and

(I) Private security officers successfully completing training in traffic direction and control, sponsored by the Traffic Safety Division of the St. Louis Metropolitan Police Department, and at the discretion of the chief of police, may be subject to activation to assist with traffic direction and control at any location in the City of St. Louis as established in the Code 1200 Department Emergency Mobilization Manual, Section III (6) Bureau of Professional Standards (b) Private Security Section.

AUTHORITY: section 84.340, RSMo 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002, effective Aug. 30, 2002. Amended: Filed May 14, 2008.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Private Security Division, Sgt. Sherri Smith, 5600 Oakland, Tower "G" 330, St. Louis, MO 63110, FAX: 314-644-9053, or email at slsmith@slmpd.org; with copies to Jane Berman Shaw, General Counsel, Legal Division, St. Louis Metropolitan Police Department, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5611, jshaw@slmpd.org, and Captain Thomas Magnan, Bureau of Professional Standards, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5711, tjmagnan@slmpd.org. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.075 Duties. The Board of Police Commissioners of the Metropolitan Police Department of the City of St. Louis is amending section (1).

PURPOSE: This amendment clarifies responsibilities of the officers on duty.

(1) Duties. It is the duty of every licensed security officer:

(C) To cooperate with St. Louis police officers in the performance of their duties.

1. Participation by licensed private security officers, on duty or off duty, in police action where police officers are on the scene, shall be limited to identifying themselves to the officer(s) and offering assistance.

2. The judgement of the *[officer(s)]* **St. Louis Metropolitan Police on-duty police officers** shall prevail in any situation where police are present. They are responsible for the proper handling and reporting of the incident in accordance with departmental policies.

3. Failure to cooperate with a St. Louis police officer may be cause for disciplinary action against a licensed private security officer.

4. Failure to assist a law enforcement agency or to aid in prosecution of a crime may be cause for disciplinary action against a licensed private security officer; and

AUTHORITY: section 84.340, RSMo 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002, effective Aug. 30, 2002. Amended: Filed May 14, 2008.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Private Security Division, Sgt. Sherri Smith, 5600 Oakland, Tower "G" 330, St. Louis, MO 63110, FAX: 314-644-9053, or email at slsmith@slmpd.org; with copies to Jane Berman Shaw, General Counsel, Legal Division, St. Louis Metropolitan Police Department, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5611, jshaw@slmpd.org, and Captain Thomas Magnan, Bureau of Professional Standards, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5711, tjmagnan@slmpd.org. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.085 Uniforms. The Board of Police Commissioners of the Metropolitan Police Department of the City of St. Louis is amending sections (1) and (2).

PURPOSE: This amendment, 17 CSR 20-2.085, proposed change is requested to allow police officers from other jurisdictions within the state of Missouri, St. Louis Airport Police, St. Louis City Deputy Sheriffs, and St. Louis City Marshals to wear their department's uniform while working secondary employment as security officers within the City of St. Louis.

(1) *[No private security uniforms may resemble those of St. Louis police officers. The light blue shirt with dark blue jacket and trousers will not be duplicated. In addition, a]* **A** company shoulder patch will be mandatory on all shirts, coats**,** and jackets of private security personnel*[, clearly identifying them as employees of that agency.]* **who are not paid, full-time Missouri Peace Officers Standards and Training (POST) certified police officers, having a minimum of six hundred (600) hours of POST certified training, St. Louis Airport Police, St. Louis City Deputy Sheriffs, or St. Louis City Marshals. All paid, full-time Missouri POST certified police officers, having a minimum of six hundred (600) hours of POST certified training, will provide the private security section with written documentation from the head law enforcement officer of their department indicating approval of their wearing of their department's official police uniform while working licensed security in the City of St. Louis.**

(A) Police officers who do not satisfy the above certification requirements shall be required to wear the company uniform for which they are employed, and are not eligible to wear their department's official police uniform.

(2) All private security officers should be aware of the following guidelines:

(A) All private security officers are required to wear a uniform, which, at a minimum, shall consist of trousers or skirt, and shirt or blouse. *[The word "police" will not be displayed anywhere on the private security officer's uniform. This extends to police officers from other jurisdictions while working as security officers in the City of St. Louis;]* **The word "police" shall only be displayed on uniforms of police officers acting in the capacity of private security officers who are state of Missouri POST certified police officers having a minimum of six hundred (600) hours of training and have been approved for licensing by the chief of police and board of police commissioners or St. Louis Airport police officers. Verification of the officer's POST certification is required;**

(D) Security personnel may wear a company badge or emblem as devised by their employer. These badges and emblems bear the name of the employer and identify the individual as a private security officer. The word "police" will not be used on the badge or emblem**, except as otherwwise provided;**

(E) A company shoulder patch *[may be worn on either the right or left sleeve approximately one inch (1") below the shoulder seam;]* **will be mandatory on all shirts, coats, and jackets of private security personnel. The patch may be worn on the right or left sleeve approximately one inch (1") below the shoulder seam. POST certified police officers with a minimum of six hundred (600) hours of training wearing their approved department uniforms while working security in the City of St. Louis are exempt from this requirement;**

AUTHORITY: section 84.340, RSMo 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002, effective Aug. 30, 2002. Amended: Filed May 14, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Private Security Division, Sgt. Sherri Smith, 5600 Oakland, Tower "G" 330, St. Louis, MO 63110, FAX: 314-644-9053, or email at slsmith@slmpd.org; with copies to Jane Berman Shaw, General Counsel, Legal Division, St. Louis Metropolitan Police Department, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5611, jshaw@slmpd.org, and Captain Thomas Magnan, Bureau of Professional Standards, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5711, tjmagnan@slmpd.org. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.105 Weapons. The Board of Police Commissioners of the Metropolitan Police Department of the City of St. Louis is amending sections (1), (2), (4), and (5).

PURPOSE: This amendment explains the limitations for officers who carry weapons.

(1) Limitations on Carrying Weapon. An armed private security officer licensed by the St. Louis Board of Police Commissioners may be permitted to carry on his/her person an authorized firearm, while traveling in either direction by the most direct route (without deviation and/or not to exceed one (1) hour) between his/her residence and place of assignment provided s/he is—

(B) Firearms-qualified; *[and]*

(C) Wearing a valid badge/identification card issued by this department*[.]***; and**

(D) Full-time, off-duty Missouri Peace Officers Standards and Training (POST) certified police officers with a minimum of six hundred (600) hours of training are exempt from this requirement.

(2) Private security officers who are authorized to carry their firearms to and from their place of residence have no authority to use their firearms during that travel period.

(B) A firearm and protective devices may not be carried off assigned premises for any nonduty related activities (lunch, fueling cars, personal relief, etc.). **Full-time, off-duty Missouri POST certified police officers and St. Louis Airport Police Officers are exempt from this requirement.**

(4) Inspection and Registration. All firearms used by private security officers must be inspected by the department armorer or his/her designee and must be registered and on file in the private security section. Armed security officers may only use a duty weapon which is personally owned by them, or owned by their agency.

(B) **Except as provided above, *[P]*p**rivate security officers must carry double action .38 Special caliber revolvers. The carrying of any other caliber weapon, including **semi**automatics, derringers, .357 Magnums**,** and shotguns**,** is prohibited. Only factory loaded, commercially available ammunition may be carried.

(5) Requirements for Police Officers from Other Jurisdictions Carrying Duty Weapons. Police officers from other jurisdictions working as security officers in the City of St. Louis may be permitted to carry their department duty weapon upon satisfying the following requirements:

(A) The officer must be a full-time employee of his/her agency and must submit a letter to the private security section from **the chief law enforcement officer of** his/her department indicating that the officer is a full-time commissioned officer;

(C) The officer must present a letter from **the chief law enforcement officer of** his/her department indicating the make, model and serial number of the weapon that they are allowed to carry while working for their department;

(D) The officer must present a letter from **the chief law enforcement officer of** his/her department indicating a policy that requires the officer to requalify with the duty weapon a minimum of twice each year**, and that the officer is subject to random drug testing**;

(E) The firearm must be approved by our department armorer and the armorer must indicate that the weapon has been approved and prepare a letter indicating approval of the weapon; *[and]*

(F) All other part-time police officers and reserve officers from other jurisdictions are required to carry a .38 caliber revolver while working security within the City of St. Louis and are required to successfully complete the firearms training program mandated by the board of police commissioners. **St. Louis Deputy Sheriffs and St. Louis City Marshals may carry a semiautomatic nine millimeter (9mm) firearm if that is their duty weapon, or a .38 Special caliber revolver; and**

(G) Tasers or other devices not specifically permitted may not be carried or used by security officers or police officers working security, unless specifically exempted by the board of police commissioners.

AUTHORITY: section 84.340, RSMo 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002, effective Aug. 30, 2002. Amended: Filed May 14, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Private Security Division, Sgt. Sherri Smith, 5600 Oakland, Tower "G" 330, St. Louis, MO 63110, FAX: 314-644-9053, or email at slsmith@slmpd.org; with copies to Jane Berman Shaw, General Counsel, Legal Division, St. Louis Metropolitan Police Department, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5611, jshaw@slmpd.org, and Captain Thomas Magnan, Bureau of Professional Standards, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5711, tjmagnan@slmpd.org. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.125 Complaint/Disciplinary Procedures. The Board of Police Commissioners of the Metropolitan Police Department of the City of St. Louis is amending subsection (6)(B).

PURPOSE: This amendment explains the exemptions for officers carrying weapons.

(6) Disciplinary Action and/or Punishment.

(B) Licensed security personnel, whether on or off duty, are subject to disciplinary action for violations of these rules. Offenses may include, but not be limited to, the following:

1. Conviction of a felony, misdemeanor or city ordinance;
2. Intoxication or drinking on duty;
3. Possession or illegal use of narcotic or potent drugs (controlled substance);
4. Assumption of police authority when not on duty;
5. Conduct contrary to the public peace and welfare;
6. Interference with any police officer engaged in the performance of his/her duties;
7. Overbearing or oppressive conduct during the performance of duty;
8. Failure to obey a reasonable order by an officer of the St. Louis Metropolitan Police Department;
9. Any conduct or actions which might jeopardize the reputation or integrity of the St. Louis Metropolitan Police Department or its members;
10. Failure to comply with the firearm restrictions, while traveling in either direction, without deviation between their residences and places of assignment by the most direct route (not to exceed one (1) hour);
11. Carrying any weapon other than a .38 Special caliber revolver while performing the duties of a private security officer**, unless specifically exempted**;
12. Failure to have a weapon inspected by the department armorer and/or his/her designee, not having a record of this weapon on file with the private security section;
13. Carrying more than one (1) authorized *[revolver]* **firearm** on duty;
14. Failure to wear a valid badge/identification card issued by this department on the breast of the outermost garment of security uniform, while on duty;
15. Failure to have in possession a badge/identification card authorizing uniform exemption while working in civilian attire;
16. Serving or acting as a licensed private security officer for any agency or business entity other than the one listed on his/her badge/identification card**, except officers of the St. Louis County Police Department**;
17. Failure to conform to uniform requirements;
18. Working as a licensed security person while under suspension;
19. Carrying a firearm concealed or otherwise in civilian attire and/or not actually engaged in providing a *bona fide* security function at the time;
20. Carrying or using a firearm while performing the duties of a licensed private security officer when not firearms qualified;
21. Any conduct constituting a breach of security or confidence;
22. Neglect of duty;
23. Failure to notify the private security section when and if arrested on any charge;
24. Failure to aid in prosecution;
25. Defacing or altering the badge/identification card;
26. Carrying unauthorized non-lethal weapons and/or protective devices;
27. Using unnecessary force in effecting an arrest or discourteous treatment or verbal abuse of any person;
28. Submitting a urine specimen which tests positive for controlled substances;
29. Failure to maintain on file at the private security section a current address and telephone number;
30. Failed to surrender badge/identification card to the private security section when license has been suspended;
31. Failure to cooperate in an investigation conducted by the private security section;
32. Identifying himself/herself as a police officer; and
33. Engaging in a vehicular pursuit.

AUTHORITY: section 84.340, RSMo 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002, effective Aug. 30, 2002. Amended: Filed May 14, 2008.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Private Security Division, Sgt. Sherri Smith, 5600 Oakland, Tower "G" 330, St. Louis, MO 63110, FAX: 314-644-9053, or email at slsmith@slmpd.org; with copies to Jane Berman Shaw, General Counsel, Legal Division, St. Louis Metropolitan Police Department, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5611, jshaw@slmpd.org, and Captain Thomas Magnan, Bureau of Professional Standards, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5711, tjmagnan@slmpd.org. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.135 Drug Testing. The Board of Police Commissioners of the Metropolitan Police Department of the City of St. Louis is amending subsection (1)(A).

PURPOSE: This amendment clarifies drug testing requirements for individuals seeking certification.

(1) Applicability. The following shall apply to all individuals seeking certification in any security category, including corporate security advisor, security officer, courier, as well as to all individuals seeking renewal or reinstatement of certification:

(A) Any individual seeking certification as an armed security officer**,** or any individual seeking reinstatement of certification, shall submit to urinalysis testing before certification is granted, renewed**,** or reinstated. This testing shall be for the purpose of determining the presence or absence of illegal drugs. Refusal to comply with this requirement shall result in the denial of certification, renewal of certification**,**

or reinstatement of certification as an armed security officer, corporate security advisor**,** or courier**, except as otherwise provided**;

AUTHORITY: section 84.340, RSMo 2000. Original rule filed April 16, 1990, effective June 28, 1990. Amended: Filed June 30, 1992, effective Feb. 26, 1993. Amended: Filed Feb. 13, 2002, effective Aug. 30, 2002. Amended: Filed May 14, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Private Security Division, Sgt. Sherri Smith, 5600 Oakland, Tower "G" 330, St. Louis, MO 63110, FAX: 314-644-9053, or email at slsmith@slmpd.org; with copies to Jane Berman Shaw, General Counsel, Legal Division, St. Louis Metropolitan Police Department, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5611, jshaw@slmpd.org, and Captain Thomas Magnan, Bureau of Professional Standards, 1200 Clark, St. Louis, MO 63103, FAX: 314-444-5711, tjmagnan@slmpd.org. 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 200—Insurance Solvency and Company Regulation
Chapter 6—Surplus Lines

PROPOSED AMENDMENT

20 CSR 200-6.100 Surplus Lines Insurance Forms. The director is amending sections (1) and (2).

PURPOSE: The primary purpose of this amendment is to mandate the use of electronic filing of surplus lines reports; electronic filing is currently optional. This amendment will also make minor, nonsubstantive changes to the rule.

(1) Forms.

(A) **Surplus Lines Filing Report—**Appendix 1 is the method prescribed by the director of the Missouri Department of Insurance**, Financial Institutions and Professional Registration** for filing the confidential written report required by section 384.031, RSMo. The **Surplus Lines Filing Report—**Appendix 1 data *[may]* **must** be filed *[manually by U.S. mail, express courier delivery, or personal delivery or]* electronically using **the** systems, software**,** and/or method prescribed by the director.

(B) **Surplus Lines Licensee's Tax Report—**Appendix 3 is the method prescribed by the director of the Missouri Department of Insurance**, Financial Institutions and Professional Registration** for filing the annual report required by section 384.057, RSMo. The **Surplus Lines Licensee's Tax Report—**Appendix 3 data *[may]* **must** be filed *[manually by U.S. mail, express courier delivery, or personal delivery or]* electronically using **the** systems, software**,** and/or method prescribed by the director.

(C) Copies of the forms are available at the department's office, at the department website, www.insurance.mo.gov, or by mailing a written request to the Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

(2) Proof of filing.

[(A) Proof of filing will be provided to the surplus lines licensee making the filings if the surplus lines licensee encloses a duplicate copy of filings and a self-addressed, stamped envelope.

(B)] Proof of filing will be provided to the surplus lines licensee making electronic filings by means or methods prescribed by the director of the Missouri Department of Insurance**, Financial Institutions and Professional Registration**.

AUTHORITY: sections 374.045, 384.017, 384.031, and 384.057, RSMo 2000. This rule was previously filed as 4 CSR 190-10.103. Original rule filed May 4, 1987, effective Aug. 1, 1987. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed May 14, 2008.*

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 save private entities eighteen thousand seven hundred nine dollars ($18,709)) annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 1:30 p.m. on July 18, 2008 at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on July 18, 2008. Written statements shall be sent to Elfin Noce, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	20 CSR 200-6.100 Surplus Lines Insurance Forms
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate as to the annual cost of compliance with the rule by the affected entities:
350	Surplus Lines Licensees	$18,709.00 Annual cost savings

* The aggregate cost to licensed insurance companies includes the aggregate cost to all licensees.

III. WORKSHEET

56,000 X $ .10 =	$ 5,600.00
56,000 X $ .10 =	$ 5,600.00
56,000 X $ .41 =	$ 22,960.00
900 X $ 3.62 =	$ 3,258.00
	$ 37,418.00
	÷ 2
	$ 18,709.00

The cost of printing one copy of the appendix 1 is assumed to be about $.10 based on a conservative estimate of about 56,000 appendix 1's per year X 2. Approximately 700 surplus lines licensees will file tax reports averaging from 1 page to 550 pages.

Cost savings from filing electronically are based on the assumption that every surplus lines licensee will avoid filing by mail the appendix 1 filings and tax reports. The mailing cost of 2 copies of the appendix 1 is assumed to be $.41. The mailing cost for tax reports, mailed UPS Ground is assumed to be $3.62. Currently, about half the surplus lines licensees file their reports electronically; accordingly, the proposed amendment would effect cost savings for only the other half the surplus lines licensees.

IV. ASSUMPTIONS

"Surplus lines licensee" means a person licensed to place insurance on risks resident, located or to be performed in this state with nonadmitted insurers eligible to accept such insurance.

The proposed amendment does not have a sunset clause. Accordingly, the fiscal impact of the proposed amendment cannot be estimated on an aggregate basis. An estimate of the maximum possible annual fiscal impact based on present value is provided instead.

The proposed amendment will affect the surplus lines licensees by requiring them to file electronically. The present rule requires all licensees to file with the Missouri Department of Insurance, Financial Institutions and Professional Registration within 30 days after placing the risk and an annual tax report hard copy listing each appendix 1 by March 1st of each year either electronically or manually with two hard copies of each appendix 1 filing. Accordingly, the proposed amendment imposes no costs but should result in cost savings, consisting primarily of the avoidance of printing and mailing costs.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 400—Life, Annuities and Health
Chapter 7—Health Maintenance Organizations

PROPOSED AMENDMENT

20 CSR 400-7.180 Standard Form To Establish Credentials. The director is amending sections (1), (2), (3), and (5) and deleting Exhibit A which follows the rule in the *Code of State Regulations*.

PURPOSE: This amendment sets forth the standard form which shall be used by all health carriers when soliciting the credentials of a health care professional in a managed care plan. This rule is promulgated pursuant to section 354.485, RSMo, and implements section 354.442.1(15), 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.

(1) Definitions.

(A) Health care professional means a physician or other **appropriately licensed** health care practitioner *[licensed, accredited or certified by the state of Missouri to perform specified health services consistent with state law]*.

(2) *[The form provided in Exhibit A]* **The Universal Credentialing DataSource form (Form UCDS), incorporated by reference and published on October 31, 2006 by the Council for Affordable Quality Healthcare, 601 Pennsylvania Avenue, NW, South Building, Suite 500, Washington, DC 20004, has been adopted and** shall be used by all health carriers and their agents when credentialing or recredentialing health care professionals in a managed care plan. **The director on request will supply in printed format the form specified in this rule. The form referenced herein is available at http://www.insurance.mo.gov. This rule does not incorporate any subsequent amendments or additions.** Use of another *[state's]* standardized credentialing form is permissible so long as the director determines prior to its use that it is substantially similar to *[the form in Exhibit A]* **Form UCDS**. Carriers shall accept any form approved by the director for credentialing purposes, and shall not require a Missouri health care professional to use any particular approved form to the exclusion of any other approved form, so long as the form submitted by the Missouri health care professional is Missouri's Standardized Credentialing Form or any other form approved pursuant to this rule. Requests for the director's approval of the use of another *[state's]* standardized credentialing form should be submitted to the following address: Missouri Department of Insurance, Managed Care Section, P*[.]*O*[.]* Box 690, Jefferson City, MO 65102-0690. A request must include a complete copy of the form to be approved and the name, address**,** and telephone number of the person requesting approval. The director will provide written notice to all Missouri licensed health maintenance organizations of the approval of the use of another *[state's]* standardized credentialing form. The director also will provide on the department's Internet home page a copy of Missouri's Standardized Credentialing Form with a list of other *[state]* standardized credentialing forms that have been approved.

(3) Health carriers may request additional information to explain or provide details regarding responses obtained on the standard form. Health carriers **and their agents** are prohibited from routinely requiring additional information**, or information that duplicates information on Form UCDS,** from health care professionals.

(5) *[A health carrier may require a health care professional to sign an affirmation and release of the health carrier's own design.]* **Accurate reproduction of the form may be utilized in lieu of the printed form. This includes, but is not limited to, accurate reproduction in paper, electronic, or Internet based formats. Health carriers and their agents shall accept an accurate reproduction, and shall not require a health care professional to use any particular accurate reproduction to the exclusion of any other accurate reproduction, except that a health carrier or agent may require a paper format if a health care professional submits an electronic or Internet based format that the health carrier or agent is not prepared to accept.**

*AUTHORITY: section 354.442.1(15), RSMo [Supp. 1999] **2000** and **section** 354.485, RSMo [1994] **Supp. 2007**. Original rule filed Nov. 3, 1997, effective June 30, 1998. Amended: Filed June 6, 2000, effective Feb. 28, 2001. Amended: Filed May 14, 2008.*

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

PRIVATE COST: This proposed amendment will cost licensed HMOs up to twenty thousand dollars ($20,000) annually. The proposed amendment will cost private physicians and other medical practitioners, hospitals, and HMO subcontractors up to ninety thousand dollars ($90,000) in one-time up front costs.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 9:00 a.m. to 11:00 a.m. on July 29, 2008 at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on July 29, 2008. Written statements shall be sent to Elfin L. Noce, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	20 CSR 400-7.180 Standard Form To Establish Credentials
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
22	Licensed HMOs	$0 - $20,000* in one-time up front costs, and in on-going costs
Approximately 148 Missouri hospitals and an unknown number of other types of entities indirectly subject to the current and proposed regulation	Private physicians and other medical practitioners Hospitals HMO subcontractors	$0 - $90,000* in one-time up front costs

III. WORKSHEET

There is no math involved with the cost estimates. Cost data was supplied by HMOs and other entities affected by the proposed rule change. In cases where that information was supplied in writing, copies are attached.

IV. ASSUMPTIONS

There are no costs for the state agency. There are no fees payable to the state agency.

The state agency solicited cost data from all licensed HMOs in Missouri, and all indirectly affected entities to the extent the state agency was able to identify and contact such entities.

The majority of directly and indirectly affected entities that supplied information to the state agency indicated a fiscal benefit of the proposed change, as opposed to any cost whatsoever.

The only mandated costs are those associated with adopting a form, such as staff training.

*Non-mandatory costs for informational purposes:

- Fees associated with utilizing the internet based data service to download data are NOT mandated by the proposed rule change, although they are included in the worksheet for informational purposes.
- Printing the form, a more tangible cost, is included in the estimate for informational purposes, but is NOT mandated by the proposed rule amendment.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.140 Minimum Standards of Competency and Trustworthiness for Insurance Producers Concerning Personal Insurance Transactions. The director is adding a new section (6).

PURPOSE: This amendment defines conduct that may subject an insurance producer to discipline under section 374.141.1(8), RSMo, relating to the use of certifications and professional designations. The language is similar to that in the North American Securities Administrators Association (NASAA) model rule on the use of senior-specific certifications and professional designations, adopted by NASAA on March 20, 2008.

(6) It shall be a dishonest or unethical practice in the business of insurance for an insurance producer to use a senior-specific certification or designation in connection with the sale, solicitation, or negotiation of insurance, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to insurance products, that indicates or implies that the user has special certification or training in advising or servicing elderly or senior persons, in such a way as to mislead any person.

(A) The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

1. Use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

2. Use of a nonexistent or self-conferred certification or professional designation;

3. Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

4. Use of a certification or professional designation that was obtained from a designating or certifying organization that is not qualified.

(B) A designating or certifying organization is "qualified" for purposes of paragraph (7)(A)4. above, when the organization has been accredited by:

1. The American National Standards Institute;

2. The National Commission for Certifying Agencies; or

3. An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued therefrom does not primarily apply to sales and/or marketing.

(C) In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a certification or professional designation indicating or implying that an adviser has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

1. Use of one or more words, such as "senior," "retirement," "elder," or like words, combined with one or more words, such as "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

2. The manner in which those words are combined.

(D) For purposes of this rule—

1. "Certification or professional designation" does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

A. Indicates seniority or standing within the organization; or

B. Specifies an individual's area of specialization within the organization;

2. "Elderly or senior person" is a person sixty (60) years of age or older; and

3. "Federal financial services regulatory agency" includes, but is not limited to, any agency that regulates—

A. Broker-dealers;

B. Investment advisers; or

C. Investment companies as defined under the Investment Company Act of 1940.

(E) Nothing in this rule shall limit the director's authority to enforce existing provisions of law.

(F) This section shall take effect on January 1, 2009.

AUTHORITY: section 374.045, RSMo 2000 ***and section 375.141, RSMo Supp. 2007****. Original rule filed April 5, 1991, effective Oct. 31, 1991. Amended: Filed Nov. 29, 1993, effective July 30, 1994. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Amended: Filed Nov. 30, 2007, effective July 30, 2008. Amended: Filed April 30, 2008.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 9:00 a.m. on July 21, 2008. The public hearing will be held at the Harry S. Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on July 25, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

PROPOSED AMENDMENT

20 CSR 2150-7.137 Waiver Renewal. The board is proposing to amend section (7).

PURPOSE: This amendment clarifies the requirements for on-site supervision to be consistent with 20 CSR 2150-7.135 and 20 CSR 2150-7.136.

(7) If the advisory commission and the board approve a request for renewal, the advisory commission and board may establish an alternate minimum amount of time the supervising physician must be on-site

while the physician assistant practices. The physician must be on-site a minimum of once every two (2) weeks **and no less than ten percent (10%) of the time the physician assistant is practicing each calendar month**. The advisory commission and board may also establish an alternate maximum distance between the supervising physician and physician assistant. The alternate maximum distance may not exceed fifty (50) miles.

*AUTHORITY: section 334.125, **RSMo 2000** and section 334.735, RSMo Supp. 2007. Original rule filed Oct. 19, 2007, effective May 30, 2008. Amended: Filed May 9, 2008.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@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 2210—State Board of Optometry
Chapter 2—General Rules

PROPOSED AMENDMENT

20 CSR 2210-2.011 Licensure by *[Reciprocity]* ***Endorsement***. The board is proposing to amend the title of the rule, the original purpose statement, section (1), subsections (1)(A) through (1)(E) and (1)(G), and sections (2) and (3).

PURPOSE: Pursuant to House Bill 780 and Senate Bill 308 of the 94th General Assembly (2007) the board is amending the text of the rule to be consistent with Chapter 336, RSMo. This amendment also clarifies the requirements and procedures for obtaining a license by endorsement and changes the title of the rule.

*PURPOSE: This rule states the requirements and procedures for obtaining a license by [reciprocity] **endorsement**.*

(1) The board may issue a license to practice optometry by *[reciprocity]* **endorsement** and without examination to an individual licensed in another state**, territory, country, or province** which the board determines has licensing *[standards]* **requirements** substantially equivalent to the *[standards]* requirements in Missouri. The applicant shall provide the following documentation to the board:

(A) A completed application with the application *[and license]* fee*[s]*;

(B) Proof that the applicant has successfully completed an optometry licensure examination in any state**,** *[of the United States]* **territory, country, or province** substantially equivalent to the licensure examination required in Missouri;

(C) **With the exception of government service,** *[P]***p**roof that the applicant has been engaged in active clinical practice **in the state, territory, country, or province in which the applicant is currently licensed** for at least three (3) years **in the five (5) years** immediately preceding the application;

(D) Proof that the applicant is registered or certified in the state from which s/he is applying for *[reciprocity]* **endorsement** to use *[diagnostic]* pharmaceutical agents *[and therapeutic pharmaceutical agents under]* **at the highest level granted in that state with** the *[guidelines]* **requirements** established in that state for registration and/or certification **being substantially equivalent to the requirements in this state**;

(E) Certification from each state in which s/he is *[currently]* **or was or has been** licensed verifying that the applicant is **or was** in good standing and has never had his/her license to practice in *[that]* **any** state disciplined in any manner and that the applicant is not the subject of any pending complaints;

(G) Such additional information as the board may request to determine eligibility for licensure by *[reciprocity]* **endorsement**.

(2) The board may require a**n** *[reciprocity]* **endorsement** applicant to successfully complete an oral interview, an oral examination**,** or a clinical examination if it is determined by the board that the *[licensing standards from the applicant's state of licensure are not substantially equivalent to the standards required in this state]* **current competency of the candidate requires additional evaluation**.

(3) All applicants for licensure by *[reciprocity]* **endorsement** shall satisfactorily complete a written *[open book]* examination on Missouri Optometric Law with a score of seventy-five percent (75%) or greater within one (1) year prior to licensure.

*AUTHORITY: section[s] 336.090, RSMo 2000 and **section** 336.160.1, **RSMo Supp. 2007**. This rule originally filed as 4 CSR 210-2.011. Original rule filed Oct. 14, 1981, effective Jan. 14, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 2, 2008.*

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 State Board of Optometry, Executive Director, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573)751-8216, or by email at optometry@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 2267—Office of Tattooing, Body Piercing and Branding
Chapter 2—Licensing Requirements

PROPOSED RESCISSION

20 CSR 2267-2.020 Fees. This rule established and fixed various fees and charges authorized by section 324.522, RSMo.

PURPOSE: This rule is being rescinded and readopted to set fees at an amount which shall not substantially exceed the cost and expense of administering sections 324.240 to 324.275, RSMo.

AUTHORITY: section 324.522, RSMo Supp. 2005. This rule originally filed as 4 CSR 267-2.020. Original rule filed Aug. 15, 2002,

effective Feb. 28, 2003. Amended: Filed Feb. 15, 2005, effective Aug. 30, 2005. Moved to 20 CSR 2267-2.020, effective Aug. 28, 2006. Amended: Filed July 17, 2006, effective Jan. 30, 2007. Rescinded: Filed May 9, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via email at tattoo@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 2267—Office of Tattooing, Body Piercing and Branding
Chapter 2—Licensing Requirements

PROPOSED RULE

20 CSR 2267-2.020 Fees

PURPOSE: This rule establishes and fixes various fees and charges authorized by section 324.522, RSMo.

(1) The operator of a tattoo, body piercing, or branding establishment shall pay a biennial license fee to the office as follows:

(A) Establishment fee	$100
(B) Combined establishment	$200
(C) Establishment renewal	$ 40
(D) Combined establishment renewal	$ 40

(2) The operator of a temporary tattoo, body piercing, and/or branding establishment shall pay a fee to the division as follows:

(A) Temporary establishment (per event)	$100
(B) Combined temporary (per event)	$100

(3) A person who wishes to practice as a tattooist, body piercer, or brander shall pay a biennial fee to the division as follows:

(A) Practitioner	$ 30
(B) Renewal for practitioner	$ 30
(C) Combined practitioner	$ 40
(D) Renewal for combined practitioner	$ 40

(4) Additional Fees:

(A) Duplicate license fee	$ 5
(B) Bad check fee	$ 25

AUTHORITY: section 324.522, RSMo Supp. 2007. This rule originally filed as 4 CSR 267-2.020. Original rule filed Aug. 15, 2002, effective Feb. 28, 2003. Amended: Filed Feb. 15, 2005, effective Aug. 30, 2005. Moved to 20 CSR 2267-2.020, effective Aug. 28, 2006. Amended: Filed July 17, 2006, effective Jan. 30, 2007. Rescinded and readopted: Filed May 9, 2008.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately fifty-seven thousand fifty dollars ($57,050) 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 rule will cost private entities approximately fifty-seven thousand fifty dollars ($57,050) 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 rule with the Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via email at tattoo@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 2267 - Office of Tattooing, Body Piercing and Branding
Chapter 2 - Licensing Requirements
Proposed Rule - 20 CSR 2267-2.020 Fees
Prepared March 24, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Biennial Revenue	
Office of Tattooing, Branding & Body Piercing		$57,050.00
	Total Revenue Biennially for the Life of the Rule	$57,050.00

III. WORKSHEET

The board estimates the projections calcuated in the Private Entity Fiscal Notes will be total revenue for the board.

IV. ASSUMPTION

1. The division is statutorily obligated to enforce and administer the provisions of sections 324.240-324.275, RSMo. Pursuant to Section 324.245.(5), RSMo, the division shall by rule and regulation set all applicable fees at an amount which shall not substantially exceed the cost and expense of administering sections 324.240 to 324.275.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2267 - Office of Tattooing, Body Piercing and Branding

Chapter 2 - Licensing Requirements

Proposed Rule - 20 CSR 2267-2.020 Fees

Prepared March 24, 2008 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 amendment:	Classification by type of the business entities which would likely be affected:	Estimated biennial cost of compliance with the rule by affected entities:
45	Establishments (License Fee @ $100)	$4,500
95	Establishments (Renewal @ $40)	$3,800
50	Combined Tattoo, Body Piercing or Branding Establishemnt (License Fee @ $200)	$10,000
120	Combined Tattoo, Body Piercing and/or Branding Establishment (Renewal Fee @ $40)	$4,800
1	Temporary Establishment (Per Event) (Application Fee @ $100)	$100
5	Temporary Combined Tattoo, Body Piercing and/or Branding Establishment (Per Event) (Application Fee @ $100)	$500
230	Practitioner (Application Fee @ $30)	$6,900
600	Practitioner (Renewal Fee @ $30)	$18,000
60	Combined Practitioner (Application Fee @ $40)	$2,400
150	Combined Practitioner (Renewal Fee @ $40)	$6,000
10	Duplicate License (Fee @ $5)	$50
0	Bad Check (Fee @ $25)	$0
	Estimated Biennial Cost of Compliance for the Life of the Rule	**$57,050**

Orders of Rulemaking

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based on FY07 actuals and FY08 projections.
2. It is anticipated that the total 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.

NOTE: The division is statutorily obligated to enforce and administer the provisions of sections 324.240-324.275, RSMo. Pursuant to Section 324.245.(5), RSMo, the division shall by rule and regulation set all applicable fees at an amount which shall not substantially exceed the cost and expense of administering sections 324.240 to 324.275.

Orders of Rulemaking