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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 4—Vendor Payroll Deduction Regulations

PROPOSED AMENDMENT

1 CSR 10-4.010 State of Missouri Vendor Payroll Deductions. The commissioner is amending subsection (2)(G).

PURPOSE: This amendment allows vendors to offer qualified cafeteria plan products in state facilities.

(2) The following requirements apply to payroll deductions:

(G) Solicitation by a vendor of signed employee applications or memberships may not be performed in state facilities at any time **with the exception of qualified vendor products for the cafeteria plan and regulations under 1 CSR 10-15.010**;

*AUTHORITY: sections 33.103, 536.010, and 536.023, RSMo Supp. [2004] **2007** and **section** 370.395, RSMo 2000. Original rule filed May 15, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 15, 2003, effective Jan. 30, 2005. Emergency amendment filed July 15, 2005, effective Sept. 1, 2005, expired Feb. 27, 2006. Amended: Filed July 15, 2005, effective Dec. 30, 2005. Emergency amendment filed July 14, 2008, effective July 24, 2008, expires Dec. 31, 2008. Amended: Filed July 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 not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, Division of Accounting, Thomas Sadowski, Director, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 15—Cafeteria Plan

PROPOSED AMENDMENT

1 CSR 10-15.010 Cafeteria Plan. The commissioner is amending the purpose, adding section (3), and amending Appendix A–Missouri State Employees' Cafeteria Plan: Article One Definitions–sections 1.05, 1.08, and 1.10; Article Two Statement of Purpose–section 2.01; Article Three Eligibility and Participation–sections 3.01, 3.02, 3.03, 3.04, 3.05, 3.06, 3.07, 3.08, and 3.09; Article Four Available Selection of Plan Categories–section 4.01 (a), (d), (e), and (g); Article Five General Provisions Regarding Plans–section 5.01; Article Seven Administration–sections 7.06 and 7.07; Article Eight Miscellaneous–section 8.03; Appendix B–Missouri State Employees' Dependent Care Assistance Plan; Appendix C–Missouri State Employees' Flexible Medical Benefits Plan: Article Seven Family and Medical Leave–section 7.02; and Article Eight Amendment and Termination–section 8.01.

PURPOSE: This amendment is being filed to comply with new legislation and update payroll deduction qualifications.

*PURPOSE: This rule complies with the statutory requirement that the commissioner file a written plan document in accordance with Chapter 536, RSMo **and payroll deduction qualifications in accordance with Chapter 33, RSMo**.*

(3) Voluntary payroll vendors that have qualified for inclusion in the Missouri State Employees' Cafeteria Plan under rules set forth in this section and 1 CSR 10-4.010 must meet the following criteria for solicitation of business on state property:

(A) The vendor's product must already be qualified by the Office of Administration;

(B) The vendor may only present the products that have qualified for cafeteria plan;

(C) The vendor must schedule solicitation visits with each building manager at least one (1) week in advance. Building managers may make more restrictive policies regarding locations and

times of visits as long as the restrictions do not prohibit access to state facilities;

(D) The vendor must not interrupt employee work time for presentation of products or services or other solicitations;

(E) The vendor may not utilize employee representatives to distribute product information;

(F) All marketing materials must have prior approval by the Office of Administration prior to distribution;

(G) Each vendor must state to employees that their product is not endorsed by the state of Missouri as a state provided benefit and include such statement on all marketing materials; and

(H) Any vendor violating any one (1) of these criteria may lose their payroll deduction privilege.

APPENDIX A
MISSOURI STATE EMPLOYEES' CAFETERIA PLAN

The State of Missouri through the Office of Administration hereby amends and restates the Missouri State Employees' Cafeteria Plan (hereinafter called the MSECP) effective January 1, *[2006]* **2009**. The provisions of the MSECP, as set forth in this document and the attendant documents for the Missouri State Employees' Dependent Care Assistance Plan (Appendix B, hereinafter called the MSEDCAP) and the Missouri State Employees' Flexible Medical Benefits Plan (Appendix C, hereinafter called the MSEFMBP), shall be applicable to each employee of the State of Missouri *[who]* **unless he/she** elects **not** to participate in the MSECP beginning with Plan Year *[2006]* **2009**.

ARTICLE ONE
DEFINITIONS

1.05 "Participant" means any employee who has *[elected to]* **not waived coverage** and is participating in the MSECP.

1.08 "Spouse or Dependent" means the spouse or dependent of a participant within the meaning of Section 125 and 152 of the *Internal Revenue Code [of 1986]*.

1.10 "Waive coverage" means to formally opt-out of participation in the MSECP sections 4.01(a), 4.01(b), 4.01(c), 4.01(d), 4.01(e), and/or 4.01(g) in writing or online.

ARTICLE TWO
STATEMENT OF PURPOSE

2.01 This Plan is intended to qualify as a "cafeteria plan" under Section 125 of the *Internal Revenue Code [of 1986]*, as amended, and is to be interpreted in a manner consistent with the requirements of Section 125. The purpose of the MSECP is to provide to participants the tax savings opportunities permissible under Section 125 of the *Internal Revenue Code*.

ARTICLE THREE
ELIGIBILITY AND PARTICIPATION

3.01 The MSECP does not apply to any individual who terminated employment with the employer prior to the effective date of this amended and restated MSECP (January 1, *[2006]* **2009**) unless such individual becomes reemployed by the employer on or after such effective date.

3.02 Any employee who is on the payroll of the employer as of the effective date is eligible to become a participant *[at the beginning of each Plan Year]* **on the effective date**. Any *[eligible]* employee, except any employee subject to the provisions of the MSECP, section 3.03, who chooses not to become a participant at the beginning of each Plan Year will not again become eligible for participation in the MSECP until the beginning of the next Plan Year, except as provided under the MSECP, section 3.09.

3.03 Any person who becomes an employee after the effective date shall be *[eligible for enrollment in]* **automatically enrolled unless waiving coverage in** the MSECP *[for one hundred twenty (120)]* **within thirty-one (31)** days from the date of employment. Such employee shall become a participant on the first day of the first full month coincident with or next following the *[Plan Administrator's receipt of the employee's enrollment application]* **date of employment**.

3.04 Subject to the provisions of the MSECP, section 3.05, an eligible employee shall **automatically** become a participant **of 4.01(a), 4.01(d), 4.01(e), and 4.01(g)** for any **and each** Plan Year *[by specifying on the appropriate election form or in an alternate prescribed manner,]* **unless waiving coverage of the specific plan, and** agree*[ment]* to and authorize*[ation for]* the reduction of the participant's compensation by a permissible amount for credit to the participant's account as maintained by the Plan Administrator. For purposes of the first sentence of this paragraph, the term "permissible amount" (unless and until subsequently changed by appropriate action of the Office of Administration and notice of such change is provided to all participants) means an amount(s) determined by the participant which is (are):

(a) not more than the expected total cost or premium during the Plan Year in the case of the State-Sponsored Medical Insurance benefit described in the MSECP, section 4.01(a);

(b) not more than five thousand dollars ($5,000) in the case of the Flexible Medical Benefits benefit described in the MSECP, section 4.01(b);

(c) not more than five thousand dollars ($5,000) in the case of the Dependent Care Assistance benefit described in the MSECP, section 4.01(c);

(d) not more than the expected total cost or premium during the Plan Year in the case of the State-Sponsored Dental Insurance benefit described in the MSECP, section 4.01(d);

(e) not more than the expected total cost or premium during the Plan Year in the case of the State-Sponsored Vision Care Insurance benefit described in the MSECP, section 4.01(e). *[In the event of any change in the permissible amount, the resulting new permissible amount must be nondiscriminatory (as defined in Section 125 of the Internal Revenue Code) in its application to participants; In the case of the insurance benefits described in the MSECP, sections 4.01(a), 4.01(d), and 4.01(e), the permissible amount elected by the employee must be consistent with or will automatically be changed to reflect the actual rate in effect at the start of the coverage period.*

(f) not more than the expected sum of the total cost or premium during the Plan Year in the case of any other product or products eligible under Section 125 of Title 26 of the United States Code, as described in MSECP section 4.01(g).]

(f) not more than the expected sum of the total cost or premium during the Plan Year in the case of any other product or products eligible under Section 125 of Title 26 of the *United States Code*, as described in MSECP section 4.01(g).

In the event of any change in the permissible amount, the resulting new permissible amount must be nondiscriminatory (as defined in Section 125 of the *Internal Revenue Code*) in its application to participants. In the case of the insurance benefits or products described in the MSECP, sections 4.01(a), 4.01(d), 4.01(e), and 4.01(g) the permissible amount *[elected by the employee]* must be consistent with the actual rate in effect at the start of the coverage period or it will automatically be changed to reflect the actual rate in effect at the start of the coverage period.

3.05 Except as otherwise provided in the MSECP, section 3.03, the **waiving of elections and flexible benefit** authorizations required by the provision of the MSECP section 3.04 must be submitted to the Plan Administrator by a date established by the Plan Administrator which shall be prior to the first day of the applicable Plan Year. Any employee who becomes a participant pursuant to the MSECP, section 3.03 shall be allowed to submit the required *[authorization]* **waiver request** with the Plan Administrator no later than *[one hundred twenty (120)]* **thirty-one (31)** days from the date of employment **in order to waive participation from the program**.

3.06 Any employee who fails to make an election when first eligible under section 3.04 or 3.05 shall be deemed to have elected to *[not receive any benefits]* **reduce his or her cash compensation in an amount equal to the total of the amounts for coverage in effect on the first day of participation of the applicable Plan Year** described in sections 4.01(a), *[4.01(b), 4.01(c),]* 4.01(d), 4.01(e), and 4.01(g) and to **have such amounts pay for coverage described in sections 4.01(a), 4.01(d), 4.01(e), and 4.01(g) to the extent he or she has elected such coverage. Further, any such employee who fails to make an election under section 3.04 or 3.05 shall be deemed to have elected to not receive any benefits under the coverage described in section 4.01(b) and 4.01(c) and to** receive **the balance of** his or her entire compensation in cash.

3.07 Any employee duly enrolled and participating in one or more of the insurance plans described in the MSECP, sections 4.01(a), 4.01(d), 4.01(e), or 4.01(g) shall be considered to have *[re-enrolled and to have]* submitted the required authorization to continue participation in the same plan(s) for the subsequent Plan Year at an amount equal to the total expected annual cost or premium based on the rate in effect as of January 1 of that subsequent Plan Year. A participant who does not wish to continue an insurance plan under the Cafeteria Plan for a subsequent Plan Year must so specify on the appropriate election form or in an alternate prescribed manner prior to the start of the subsequent Plan Year.

3.08 Any employee who elects pursuant to an authorization under section 3.05 of this Plan an amount under the Flexible Medical Benefits described in the MSECP, section 4.01(b) or the Dependent Care Assistance *[benefit]* **plan** described in the MSECP, section 4.01(c) for any Plan Year shall be deemed to have also made an election to receive benefits under sections 4.01(a), 4.01(d), 4.01(e), and 4.01(g) to the extent the participant's share of premiums (if any) for any benefits under sections 4.01(a), 4.01(d), 4.01(e), and 4.01(g). *[However, a participant who would otherwise be deemed to have made an election for benefits described in sections 4.01(a), 4.01(d), 4.01(e), and 4.01(g) due to this paragraph may make an election to not receive benefits under section 4.01(a), 4.01(d), 4.01(e), or 4.01(g) by so indicating on the Enrollment Form or in the alternate prescribed manner.]*

3.09 Permitted Election Changes.

(a) Following the commencement of any Plan Year for which an employee *[elects to]* participate**s** in the MSECP, the authorization filed with the Plan Administrator for such Plan Year may neither be changed nor revoked except as provided in this section. An employee may revoke an election during a period of coverage and make a new election for the remainder of the relevant coverage period only as provided in paragraphs (b) through (h) of this section. **Such revocation and new election must be made within sixty (60) days of an event described in (b) through (g) of this section and is made on account of and corresponds to the event.**

(b) Special enrollment rights. An employee may revoke an election for a benefit described under Article Four, section 4.01(a), 4.01(d), or 4.01(e) and make a new election that corresponds with the special enrollment rights provided in *Internal Revenue Code* Section 9801(f) (HIPAA), whether or not the change in election is permitted under paragraph (c) of this section.

(c) Changes in status.

1. An employee may revoke an election and make a new election for the remaining portion of the period if, under the facts and circumstances—

(i) A change in status occurs; and

(ii) The election change satisfies the consistency requirement in paragraph (c)(3) of this section.

2. Change in status events. The following events are changes in status for purposes of this paragraph (c)—

(i) Legal marital status. Events that change an employee's legal marital status, including marriage, death of spouse, divorce, legal separation, or annulment;

(ii) Number of dependents. Events that change an employee's number of dependents (as defined in *Internal Revenue Code* Section 152), including birth, adoption, placement for adoption (as defined in regulations under *Internal Revenue Code* Section 9801), or death of a dependent, or in the case of Dependent Care, a change in the number of qualifying individuals as defined in the *Internal Revenue Code* Section 21(b)(1);

(iii) Employment status. Any of the following events that change the employment status of the employee, spouse, or dependent is considered a change in status. A termination, commencement of employment, a strike or lockout, a commencement of or return from an unpaid leave of absence of more than thirty (30) days, change in worksite, or any other employment status change that affects eligibility under this plan or employee benefit plan of the employer of the spouse or dependent;

(iv) Dependent satisfies or ceases to satisfy the requirements for unmarried dependents. An event that causes an employee's dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstances as provided in the accident or health plan under which the employee receives coverage; and

(v) Residence. A change in the place of residence of the employee, spouse, or dependent.

3. Consistency rule—

(i) General rule. An employee's revocation of a Cafeteria Plan election during a period of coverage and **a** new election for the remaining portion of the period (referred to as an "election change") is consistent with a change in status if, and only if—

(A) The change in status results in the employee, spouse, or dependent gaining or losing eligibility for coverage under either the Cafeteria Plan or a plan of the spouse's or dependent's employer; and

(B) The election change corresponds with that gain or loss of coverage.

(ii) If the change in status is the employee's divorce, annulment or legal separation from a spouse, the death of a spouse or dependent, or a dependent ceasing to satisfy the eligibility requirements for coverage, an employee's election under the cafeteria plan to cancel accident or health insurance coverage for any individual other than the spouse involved in the divorce, annulment or legal separation, the deceased spouse or dependent, or the dependent that ceased to satisfy the eligibility requirements for coverage, respectively, fails to correspond with that change in status. Thus, if a dependent dies or ceases to satisfy the eligibility requirements for coverage, the employee's election to cancel accident or health coverage for any other dependent, for the employee, or for the employee's spouse fails to correspond with that change in status.

In addition, if an employee, spouse, or dependent gains eligibility for coverage under a plan provided by the employer of the spouse or dependent as a result of a change in marital status or a change in employment status, the employee may cease or decrease coverage for that individual only if coverage for that individual becomes applicable or is increased under that employer's plan.

(iii) A change in status results in an employee, spouse, or dependent gaining (or losing) eligibility for coverage under a plan only if the individual becomes eligible (or ineligible) to participate in the plan. An individual is considered to gain or lose eligibility for coverage if the individual becomes eligible (or ineligible) for a particular package option under a plan (e.g., a change in status results in an individual becoming eligible for a managed care option or an indemnity option). If, as a result of a change in status, the individual gains eligibility for elective coverage under a plan of the spouse's or dependent's employer, the consistency rule of this paragraph (c)(3)(i) is satisfied only if the individual elects the coverage under the spouse's or dependent's employer.

(iv) Exception for COBRA. Notwithstanding paragraph (c)(3)(i) of this section, if the employee, spouse, or dependent becomes eligible for continuation coverage under any of the employer's health plans described in sections 4.01(a), 4.01(d), 4.01(e), or 4.01(g) as *[required]* **provided** under COBRA or any similar state law, the employee may *[elect to]* increase payments under the Cafeteria Plan in order to pay for the continuation coverage.

(v) Except as provided in this paragraph the provisions of paragraph (c) apply to an election change under a benefit described under Article 4.01(b). A participant may reduce an election for a benefit described under 4.01(b) due to a change in status if and only if the employee's legal martial status changes due to death, divorce, annulment, or legal separation, or there is a reduction in the number of dependents of the employee (as defined in section 152 of the *Internal Revenue Code*) due to death.

(d) Judgment, decree, or order. This paragraph (d) applies to a judgment, decree, or order ("order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order defined in section 609 of the Employee Retirement Income Security Act of 1974) that requires accident or health coverage for an employee's child. Notwithstanding the provisions of paragraph (c) of this section, an employee may—

1. Make an election change to a plan described under sections 4.01(a), 4.01(b), 4.01(d), 4.01(e), or 4.01(g) to provide coverage for the child if the order requires coverage under the employee's plan; or

2. Make an election change to a plan described under sections 4.01(a), 4.01(b), 4.01(d), 4.01(e), or 4.01(g) to cancel coverage for the child if the order requires the former spouse to provide coverage.

(e) Entitlement to Medicare or Medicaid. If an employee, spouse, or dependent becomes entitled to coverage (i.e., enrolled) under Part A or Part B of Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under section 1928 of the Social Security Act (the program for distribution of pediatric vaccines), an employee may make an election change to a plan described under sections 4.01(a), 4.01(d), 4.01(e), or 4.01(g) to cancel coverage of that employee, spouse, or dependent under the accident or health plan. In addition, if an employee, spouse, or dependent who has been entitled to such coverage under Medicare or Medicaid loses eligibility for such coverage, an employee may make an election change to commence or increase coverage under a plan described under sections 4.01(a), 4.01(d), or 4.01(e), or 4.01(g).

(f) Coverage or cost changes. Changes allowed under this section are not applicable to Flexible Medical Benefits as described in section 4.01(b). Therefore, no changes to an election for Flexible Medical Benefits is allowed due to events described in this section (f).

1. Cost changes. A participant's *[election for a]* plan described under Article 4.01(a), 4.01(d), 4.01(e), or 4.01(g) will automatically be changed to reflect a change in the cost of coverage. Alternatively, if the premium amount significantly increases a participant may revoke an election and, in lieu thereof, to receive on a prospective basis, coverage under another health plan with similar coverage.

2. Coverage changes. If the coverage under a plan is significantly curtailed or ceases during a period of coverage, affected employees may revoke *[their]* **his/her** election under the plan and may make a new election on a prospective basis for coverage under another *[package]* **plan** option providing similar coverage. Coverage under an accident or health plan is significantly curtailed only if there is an overall reduction in coverage provided to participants under the plan so as to constitute reduced coverage to participants generally. For example, the loss of a participant's primary care physician would not be a significant curtailment because it does not affect participants in general.

Addition (or elimination) of *[package]* **a plan** option providing similar coverage. If during a period of coverage the plan adds a new plan *[package]* option or other coverage option (or eliminates an existing plan *[package]* option or other coverage option) affected employees may elect the newly-added option (or elect another option if an option has been eliminated) prospectively and make corresponding election changes with respect to other plan *[package]* options providing similar coverage.

3. Change in coverage of spouse or dependent under other employer's plan. An employee may make a prospective election change to a plan described under sections 4.01(a), 4.01(d), 4.01(e), or 4.01(g) that is on account of and corresponds with an election made under the plan of the spouse's, former spouse's or dependent's employer if the period of coverage under the cafeteria plan or qualified plan of the spouse's, former spouse's, or dependent's employer only allows elections for periods of coverage different than the Plan Year for the MSECP.

(g) Special requirements concerning the Family and Medical Leave Act.

An employee taking FMLA leave may revoke an existing election for the remaining portion of the coverage period. Upon returning from FMLA leave, an employee may choose to be reinstated in any benefit described under this plan if such coverage was terminated during the FMLA leave (either by revocation or nonpayment of premiums). Such reinstatement will be on the same terms as prior to taking FMLA leave. However, the employee has no greater right to benefits for the remainder of the Plan Year than an employee who has been continuously working during the Plan Year. In addition to the rights granted under FMLA, such an employee has the right to revoke or change elections under the same terms and conditions as are available to employees participating in the Cafeteria Plan who are not on FMLA leave.

If an employee's coverage under a benefit described in section 4.01(b) or 4.01(c) terminates while the employee is on FMLA leave, the employee is not entitled to receive reimbursements for claims incurred during the period when the coverage is terminated. If that employee subsequently elects to be reinstated in a benefit previously terminated upon return from FMLA leave for the remainder of the Plan Year, the employee may not retroactively elect coverage for claims incurred during the period when the coverage was terminated. Further, the employee is not entitled to greater benefits relative to premiums paid than an employee who has been continuously working during the Plan Year. Therefore, if an employee elects to be reinstated in a benefit described above upon return from FMLA leave, the employee's coverage for the

remainder of the Plan Year is equal to the employee's election for the 12-month period of coverage (or such shorter period as provided under section 3.03 or this section 3.09), prorated for the period during the FMLA leave for which no premiums were paid, and reduced by prior reimbursements.

(h) Effective date of election changes.

Any increase in the election amount designated by a participant made due to a change in status may include only those expenses which the participant expects to incur at a time during the period of coverage subsequent to the effective date of the increase. Any increase or decrease to an election amount for a program described in the Plan document under Article Four, section 4.01(b) or 4.01(c) shall be effective with the first day of the month coincident with or next following the Plan Administrator's receipt and approval of written notification of the new election. Any increase or decrease to an election amount for a program described in the Plan document under Article Four, section 4.01(a), 4.01(d), 4.01(e), or 4.01(g) shall be effective with the first required premium payment after the event.

ARTICLE FOUR
AVAILABLE SELECTION OF PLAN CATEGORIES

4.01 In general, employees **are automatically enrolled into 4.01(a), 4.01(d), 4.01(e), and 4.01(g) unless waiving coverage in writing and** may choose to participate in *[any one or more of the following plan categories]* **4.01(b) and 4.01(c)** offered under the MSECP:

(a) State-Sponsored Medical Insurance—This category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any plan or program which provides medical benefits or health insurance to or on behalf of any employee or spouse or dependent in the event of illness or personal injury to the employee or spouse or dependent, which plan or program is available to the employee by reason of status as an employee. The term plan or program, for purposes of this article, shall include any group insurance or other plan which is either provided by the Missouri Consolidated Health Care Plan (MCHCP), **Missouri Department of Transportation and Missouri State Highway Patrol Medical & Life Insurance Plan, or Conservation Employees Benefits Plan Trust Fund,** or is obtained by competitive bid and is not duplicative of any other plan provided by the *[MCHCP]* **State of Missouri**. This article shall expressly include any Health Maintenance Organization (HMO) to which the employer makes a contribution on behalf of a participant;

(b) Flexible Medical Benefits—This category provides for payment to the participant of the cost of medical care for the participant or spouse or dependents of the participant. Such expenses must be incurred pursuant to the terms of the separate but related MSEFMBP (Appendix C), established in conjunction with the MSECP;

(c) Dependent Care Assistance—This category provides for payment to the participant of employment-related expenses for the care of the spouse or dependents of the participant. Such expenses must be incurred pursuant to the terms of the separate but related MSEDCAP (Appendix B) established concurrently with the MSECP;

(d) State-Sponsored Dental Insurance—This category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any plan or program which provides dental benefits or dental insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of status as an employee. The term plan or program, for purposes of this article, shall include any group insurance or other plan which is either provided by the Missouri Consolidated Health Care Plan (MCHCP), or is obtained by competitive bid *[and is not duplicative of any other plan provided by the MCHCP]*;

(e) State-Sponsored Vision Care Insurance—This category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any plan or program which provides vision care benefits or vision care insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of status as an employee. The term plan or program, for purposes of this article, shall include any group insurance or other plan which is either provided by the Missouri Consolidated Health Care Plan (MCHCP), or is obtained by competitive bid *[and is not duplicative of any other plan provided by the MCHCP]*;

(f) Cash; and

(g) Other Products—This category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any **qualified** plan or program which provides any other **qualified** product eligible under Section 125 of the *United States Code*, to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee *[by reason of status as an employee]* **through a payroll deduction agreement with the vendor**.

ARTICLE FIVE
GENERAL PROVISIONS REGARDING PLANS

5.01 No expenditure of any nature shall qualify for payment or reimbursement under the MSECP unless the expense is for the participant, the participant's spouse, or the participant's dependent. Such expenses must be incurred during the participant's period of coverage and must be related to the particular plan *[election]* **selection** made by the participant at the time of enrollment for the period of coverage. For purposes of the MSECP, a period of coverage is any Plan Year (including an initial short Plan Year) or, in the case of participants subject to the MSECP, section 3.03, a period of coverage extends from the *[effective date of enrollment]* **first day of the month coincident with or next following the hire date** through the end of the Plan Year **unless waiving coverage of the plan**. In the case of medical expenses, an expense will be considered as having been incurred at the time the medical care related to the expense is provided and not at the time the expense is charged, billed or paid. Similarly, in the case of dependent care expenses, an expense will be considered as having been incurred at the time the dependent care related to the expense is provided.

ARTICLE SEVEN
ADMINISTRATION

7.06 Premium amounts returned by a medical or insurance provider or any benefit amount erroneously withheld and returned to the State by the Plan Administrator shall be deposited into the MSECP account. Allowable refunds, less required federal, state and Social Security tax withholdings, shall be issued by check payable to the participant from the MSECP account **and wage reporting for tax purposes will be corrected**.

7.07 Vendors of products included in 4.01(g) must comply with 1 CSR 10-4.010 **and 1 CSR 10-15.010,** and also agree to [*a*] fee**s** for the cost of administration, set by the Commissioner of Administration.

ARTICLE EIGHT
MISCELLANEOUS

8.03 Products included under 4.01(g) are not endorsed or provided by the State of Missouri. Solicitation by a vendor of signed employee applications or memberships may not be performed in State facilities at any time **with the exception of qualified vendor products for the cafeteria plan and regulations under 1 CSR 10-15.010(3)**.

APPENDIX B
MISSOURI STATE EMPLOYEES' DEPENDENT CARE ASSISTANCE PLAN

The State of Missouri hereby establishes for the benefit of its employees a Dependent Care Assistance Plan (hereinafter called the MSED-CAP) intended to conform to the requirements of paragraphs (2) through (8) of subsection (d) of Section 129 of the *Internal Revenue Code [of 1986]*, and in association with the Missouri State Employees' Cafeteria Plan, (Appendix A; hereinafter called the MSECP), established concurrently herewith.

APPENDIX C
MISSOURI STATE EMPLOYEES' FLEXIBLE MEDICAL BENEFITS PLAN

The State of Missouri hereby establishes for the benefit of its employees a Flexible Medical Benefits Plan (hereinafter called the MSEFMBP) intended to conform to the requirements of Section 105(b) of the *Internal Revenue Code [of 1986]* and in association with the Missouri State Employees' Cafeteria Plan (Appendix A, hereinafter called the MSECP), established concurrently herewith.

ARTICLE SEVEN
FAMILY AND MEDICAL LEAVE

7.02 An employee who continues coverage while on paid or unpaid FMLA leave may choose from one or both of the following payment options. These options are referred to in this section as pre-pay and pay-as-you-go. *[The catch-up option is only available while the employee is on an unpaid FMLA leave.]*

(a) Pre-pay.

(1) Under the pre-pay option, an employee may pay, prior to commencement of the FMLA leave period, the amounts due for the FMLA leave period.

(2) Contributions under the pre-pay option may be made on a pre-tax salary reduction basis from any taxable compensation.

(3) Contributions under the pre-pay option may also be made on an after-tax basis.

(b) Pay-as-you-go.

(1) Under the pay-as-you-go option, employees may pay their premium payments on the same schedule as payments would be made if the employee were not on leave or under any other payment schedule permitted by the Labor Regulations at 29 CFR 825.210(c) (i.e., on the same schedule as payments are made under the Consolidated Omnibus Reconciliation Act of 1985, Public Law 99-272; under the employer's existing rules for payment by employees on leave without pay; or under any other system voluntarily agreed to between the employer and the employee that is not inconsistent with this section or with 29 CFR 825.210(c)).

(2) Contributions under the pay-as-you-go option may be made on a pre-tax basis to the extent that the contributions are made from taxable compensation that is due the employee during the leave period, and provided that all cafeteria plan requirements are satisfied.

(3) Coverage under the MSEFMBP will be terminated for any employee who fails to make required premium payments while on FMLA leave.

[(c) Catch-up.

(1) An employee on an unpaid FMLA leave may elect to use the catch-up option to pay premiums advanced on his or her behalf by the state during the FMLA leave. The state and the employee must agree in advance of the coverage period that: the employee elects to continue coverage while on unpaid FMLA leave; the state will assume responsibility for advancing payment of the premiums on the employee's behalf during the FMLA leave; and these advance amounts must be paid by the employee when the employee returns from FMLA leave.

(2) Contributions under the catch-up option may be made on a pre-tax salary reduction basis when the employee returns from FMLA leave from any available taxable compensation. These contributions will not be included in the employee's gross income, provided that all Cafeteria Plan requirements are satisfied.

(3) Contributions under the catch-up option may also be made on an after-tax basis.]

ARTICLE EIGHT
AMENDMENT AND TERMINATION

8.01 The employer reserves to itself the right to amend this MSEFMBP in any manner which it deems to be necessary or desirable and shall amend the MSEFMBP in any respect necessary to conform to the provisions of the *Internal Revenue Code [of 1986]*, or relevant regulations promulgated thereunder, and further reserves the right to terminate the MSEFMBP by appropriate action.

AUTHORITY: section 33.103, RSMo Supp. [2004] 2007. Original rule filed March 15, 1988, effective June 1, 1988. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed July 14, 2008, effective July 24, 2008, expires Dec. 31, 2008. Amended: Filed July 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 not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, Division of Accounting, Thomas Sadowski, Director, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of *[Community and Economic Development]* Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

PROPOSED RULE

4 CSR 85-5.010 Overview and Definitions

PURPOSE: This gives a brief overview of the program and defines terms used in this chapter.

(1) The Missouri Historic Preservation Tax Credit (HTC) Program was enacted in 1997 and took effect on January 1, 1998. The law may be found in sections 253.545 to 253.561, RSMo. The law is intended to aid in the rehabilitation of historic structures in the state of Missouri by providing an incentive in the form of state tax credits equal to twenty-five percent (25%) of the total costs and expenses of rehabilitation, provided that such costs and expenses exceed fifty percent (50%) of the total basis in the property. The Department of Economic Development (DED) is responsible for the issuance of the credits based upon certification of the rehabilitation by the Department of Natural Resources, State Historic Preservation Office.

(2) As used in this chapter, the following terms mean:

(A) Final Completion. For the purposes of issuing state historic preservation tax credits, the project is considered complete when all work has been done on the project. The final year construction costs are incurred is the year credits will be issued. (i.e., if costs are still being incurred in 2007 then regardless of "placed in service" date or date of "substantial completion," the credits will be issued as 2007 credits if those expenses are being claimed for tax credits.) Please note: completion dates have been established for the state historic program only. Federal guidelines vary. Final completion is separately determined for each "construction period" of a "multiple project." Costs associated with one construction period may not be carried to another construction period of a project. Each construction period is considered a separate project for audit purposes and must stand alone to meet all requirements of the HTC Program. Any exceptions must be submitted to DED before the final cost certification is submitted and must be approved in writing by DED.

(B) Identity of Interest. An identity of interest may exist: 1) when the project owner has any financial interest in the other party (i.e. general contractor, subcontractor, vendor); 2) when one (1) or more of the officers, directors, stockholders, or partners of the project owner is also an officer, director, stockholder, or partner of the other party; 3) when any officer, director, stockholder, or partner of the project owner has any financial interest whatsoever in the other party or has controlling interest in the management or operation of the other party; 4) when the other party advances any funds to the project owner; 5) when the other party provides and pays on behalf of the project owner the cost of any legal services, architectural services, or engineering services other than those of a surveyor, general superintendent, or engineer employed by a general contractor in connection with obligations under the construction contract; 6) when the other party takes stock or any interest in the project owner as part of consideration to be paid; and 7) when there exists or comes into being any side deals, agreements, contract, or undertakings entered into thereby altering, amending, or canceling any of the original documents submitted to DED at initial application, except as approved by DED. In the event an Identity of Interest exists between the project owner, developer, and/or contractor, care should be taken that no duplication of work exists.

(C) Non-Qualified Expenditures. All costs included in Total Project Costs which are not Qualified Rehabilitation Expenditures are considered Non-Qualified Expenditures.

(D) Project Owner. The entity or individual(s) owning the structure or property on which rehabilitation or new construction costs have been incurred which are expected to generate HTC and/or Neighborhood Presentation Act (NPA) tax credits.

(E) Qualified Rehabilitation Expenditures (QRE) – HTC. Qualified Rehabilitation Expenditures are those expenditures that are used as eligible basis on which to calculate the Missouri Historic Preservation Tax Credit. Such costs include, but shall not be limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the *Internal Revenue Code* of 1986, as amended.

(F) Qualified Rehabilitation Expenditures (QRE) – NPA. Qualified Rehabilitation Expenditures are those expenditures that are used as eligible basis on which to calculate the Missouri Neighborhood Preservation Tax Credit.

(G) Total Project Costs. Total Project Costs include all costs, whether accrued or paid, pertaining to the redevelopment of the property for which an application for tax credits has been submitted. Total Project Costs include all Qualified Rehabilitation Expenditures and all Non-Qualified Expenditures, including the shell acquisition cost. It does not include any cash reserves established or to be established for the project, such as replacement reserves, lease-up reserves, lease commission reserves, or other cash held by, or for, the project owner.

AUTHORITY: section 135.487, RSMo 2000 and section 620.010, RSMo Supp. 2007. Original rule filed July 8, 2008.

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

PRIVATE COST: This proposed rule is estimated to cost private entities less than five hundred dollars ($500) in the aggregate

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Economic Development, 301 West High St. Suite 770, PO Box 118, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for September 24, 2008, 1:00 p.m., at the Harry S Truman Building, Room 400, 301 West High Street, Jefferson City, Missouri.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of *[Community and Economic Development] Business and Community Services*
Chapter 5—Historic Preservation Tax Credit Program

PROPOSED RULE

4 CSR 85-5.020 Preliminary Application

PURPOSE: This rule establishes requirements for submitting a preliminary application for tax credits under the Historic Preservation Tax Credit Program.

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) In order to qualify for state historic preservation tax credits, the property must be a certified historic structure listed on the National Register of Historic Places or a contributing structure in a certified historic district, as those terms are defined in section 253.545, RSMo. The eligible rehabilitation costs and expenses must exceed fifty percent (50%) of the total basis in the property. A copy of the portion of the settlement statement that shows purchase price must be submitted as proof, preferably with the preliminary application materials. The rehabilitation must meet standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the State Historic Preservation Office of the Missouri Department of Natural Resources (SHPO).

(2) The approval process is broken into two (2) parts—the preliminary application and the final application. A preliminary application should be submitted prior to any project work. This allows the Missouri Department of Economic Development (DED) and SHPO to review the project for eligibility and allows SHPO to guide the applicant in regard to rehabilitation. Any work done prior to certification of preliminary approval is done at the applicant's risk.

(3) A project may be completed in multiple construction periods. Use of construction periods will only be allowed when a phased federal application is also filed. The construction periods used for the state historic rehabilitation must match the phase dates submitted in the federal application. The applicant must apply for all construction periods simultaneously, prior to the start of any work on the project. An applicant who elects to utilize construction periods must submit an audit performed by a certified public accountant.

(4) Applicants for state historic preservation tax credits must follow the procedures and guidelines found in *Missouri Historic Preservation Tax Credit Program, Preliminary Application and Guidelines* and complete *Historic Preservation Tax Credit Program—Preliminary Approval Form 1*, both of which are incorporated by reference in this rule as published June 26, 2008, by DED and available at DED, Business and Community Services, 301 West High Street, Suite 770, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.

(5) After receiving preliminary approval, the applicant may go forward with the project. When the project is completed and expenses have been paid, the final application should be submitted along with expense documentation and required application materials. (See Rule 4 CSR 85-5.030.) After the final materials are received by DED, SHPO performs a final review of the technical project work and DED performs an audit of the expenses. After approval of the project work and expenses, a tax credit certificate for twenty-five percent (25%) of state qualified rehabilitation expenditures is issued and mailed to the applicant.

AUTHORITY: section 620.010, RSMo Supp. 2007. Original rule filed July 8, 2008.

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

PRIVATE COST: This proposed rule is estimated to cost private entities less than five hundred dollars ($500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Economic Development, 301 West High St. Suite 770, PO Box 118, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for September 24, 2008, 1:00 p.m., at Harry S Truman Building, Room 400, 301 West High Street, Jefferson City, Missouri.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of *[Community and Economic Development] Business and Community Services*
Chapter 5—Historic Preservation Tax Credit Program

PROPOSED RULE

4 CSR 85-5.030 Final Application

PURPOSE: This rule establishes the requirements for submitting the final application for tax credits under the Historic Preservation Tax Credit Program.

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) When a project for which tax credits are sought under the Historic Preservation Tax Credit Program (HTC) is completed and expenses have been paid, the final application should be submitted along with expense documentation and required application materials. After the final materials are received by the Department of Economic Development (DED), the State Historic Preservation Office of the Department of Natural Resources (SHPO) performs a final review of the technical project work and DED performs an audit of the expenses. After approval of the project work and expenses, a tax credit certificate for twenty-five percent (25%) of qualified rehabilitation expenditures is issued and mailed to the applicant.

(2) For projects with total project costs of two hundred fifty thousand dollars ($250,000) or more in which tax credits are being sought under both the HTC program and the Neighborhood Preservation Tax Credit Program (sections 135.475 to 135.487, RSMo), the project applicant must follow the HTC guidelines and complete the HTC

cost certification, which will be used by both programs in the credit approval process.

(3) Applicants for state historic preservation tax credits must follow the procedures and guidelines found in *Missouri Historic Preservation Tax Credit Program, Final Application and Guidelines* and complete *Historic Preservation Tax Credit Program, Final Approval Form – Form 2*, both of which are incorporated by reference in this rule as published June 26, 2008, by DED and available at DED, Business and Community Services, 301 West High Street, Suite 770, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: section 135.487, RSMo 2000 and section 620.010, RSMo Supp. 2007. Original rule filed July 8, 2008.

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

PRIVATE COST: This proposed rule will cost private entities two hundred thirty-seven thousand dollars ($237,000) annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Economic Development, 301 West High St. Suite 770, PO Box 118, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for September 24, 2008, 1:00 p.m., at Harry S Truman Building, Room 400, 301 West High Street, Jefferson City, Missouri.*

FISCAL NOTE
PRIVATE COST

I. **Department Title:** Title 4 – Department of Economic Development
Division Title: Division 85 – Division of Business and Community Services
Chapter Title: Chapter 5 – Historic Preservation Tax Credit Program

Rule Number and Title:	4 CSR 5.030 Final Application
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Annual aggregate estimate as to the cost of compliance with the rule by the affected entities:
79	Rehabilitation projects with total project costs under $250,000	$237,000/year

III. WORKSHEET

Rehabilitation projects with total project costs under $250,000 for FY 2008: 79
Estimated maximum cost for certified public accountant
to perform cost certification: x $3,000

Estimated annual aggregate cost of compliance: $237,000

IV. ASSUMPTIONS

The proposed rule imposes a new requirement on rehabilitation projects with total project costs under $250,000 that a cost compilation be performed by a certified public accountant. Cost estimates from accounting firms for such work ranged from $1,500 to $3,000.

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 25—Motor Carrier Operations

PROPOSED AMENDMENT

7 CSR 10-25.020 Over*[dimension]*size and Overweight Permits. The Missouri Highways and Transportation Commission is amending sections (1), (6), (9), (10), (13), and (14) and subsections (1)(B), (1)(C), (1)(D), (1)(E), (1)(F), (1)(G), (2)(A), (2)(B), (2)(C), (3)(A), (4)(A), (4)(B), (4)(E), (4)(G), (4)(I), (7)(B), (7)(D), (8)(A), (8)(E), (9)(B), (9)(C), (10)(B), (10)(C), (10)(G), (11)(A), (11)(B), (11)(C), (11)(D), (11)(G), (12)(A), (12)(I), (12)(J), (12)(L), (13)(A), (13)(B), (14)(C), (15)(A), (15)(C), (15)(E), (15)(F), (15)(H), (15)(K), (16)(A), (16)(D), (16)(E), and (17)(B); adding new subsections (2)(D) through (2)(J), (10)(C), and (15)(D) and section (7); deleting section (5); and renumbering subsection (2)(D), sections (6), (7), subsections (10)(C) through (10)(G), and subsections (15)(D) through (15)(K).

PURPOSE: This proposed amendment will increase the permittable weights on tandem and quadrum axle groups and increase the gross weight permittable on certain configurations, in addition to other various updates.

(1) General Regulations for Over*[dimension]*size/Overweight Permits.

(B) Permits will not be granted for travel on the state highway system for movement of a load reducible in *[dimension(s)]*size or weight, except for:

1. *[f]*Farm products (hay) and equipment with dual tires as permitted in sections *[(7)]*(6) and (10)*[.]*;

2. Emergency response vehicles loaded with salt, sand, chemicals, or a combination thereof, with or without a plow or blade attached in front, and being used for the purpose of spreading the material on state highways that are or may become slick or icy; or

3. Military vehicles transporting marked military equipment or material. Reducible portions of any over*[dimension]*size or overweight load shall include, but are not limited to, any attachment, accessory, member or assembly designed to be detached with hand tools.

(C) Unladen vehicles or combinations are to comply with legal size and weight limitations as listed in Chapter 304 of the *Missouri Revised Statutes* unless exceptions can be justified by safety considerations based on an over*[dimension]*size or overweight object to be transported by the vehicle.

(D) Economic factors in either the saving of time or costs for routing will not be considered of primary importance in the routing process and the department reserves the right to designate routing and travel time for all movements. Safety, structure capacities and clearances, roadway widths, and traffic volumes will all be considered in route determination. The routing will use the designated state highway system as shown on the Missouri Vehicle Route Map and/or be as direct as possible. When other streets or highways off the state highway system are used, it will be the responsibility of the applicant to obtain approval from the agency responsible for *[such]* **that** off-state highway and adhere to all bridge capacity postings *[on]* **off** the state highway system.

(E) Limitations for all over*[dimension]*size and overweight load movements will be determined by the least hazardous road conditions and volume of traffic which will be encountered and the practical capacity of the roadway, structures and the vehicle involved, based upon axle loads. All responses to requests for routing approval prior to application are furnished for general information only. Due to constantly changing highway conditions such routing approval is subject to change without notice.

(F) Exceptions may be made for feasible over*[dimension]*size and/or overweight movements certified as essential to national defense, upon receipt of written documentation by designated officials within the Defense Department.

(G) Permits may specify maximum and minimum speeds to reduce hazards or control impact factors on pavement or structures **and may specify lane restrictions while crossing structures to provide for better load distribution to the structural members of that structure**. Power units shall have sufficient weight and power to handle the load safely and maintain reasonable speeds.

(2) Financial Responsibility.

(A) An applicant *[must submit proof of insurance meeting the required minimum amount before a permit can be issued. While operating under authority granted under this rule, an applicant must have on file with the Missouri Department of Transportation, Motor Carrier Services Division an approved certificate of liability insurance specifically showing coverage of amounts]* **for an oversize/overweight permit shall have on file with the Missouri Department of Transportation's Motor Carrier Services Division an approved proof of coverage for bodily injury to, or death of, an individual and for loss or damage to property in a form satisfactory to the Missouri Highways and Transportation Commission. Proof of coverage shall be effective during all of the applicant's oversize/overweight operations authorized under such permit covering each motor vehicle operating under the authority of the applicant's permit in amounts** not less than the following:

SCHEDULE OF MINIMUM LIMITS
OF COMBINED SINGLE LIMIT
AUTOMOBILE LIABILITY

Type of Move	Amount
1) Routine	$750,000
2) Super Heavy and Large Loads	$2,000,000
3) Noncommercial Building (House) Movement	$2,000,000

[Refer to subsection (8)(C) for financial responsibility for escorts.]

(B) *[For movement of a noncommercial building (as described in section (16)), the insurance certificate or other evidence of insurance provided by the applicant MUST INCLUDE the following statement under description of operations: "STRUCTURAL MOVING OPERATIONS OF THE NAMED INSURED INCLUDED IN THIS COVERAGE" In the case of excessive overweight, additional financial responsibility may be required to protect the state in regard to excessive damage to the state highway system and its facilities.]* **Public Liability Insurance and Surety Bond Forms. The proof of insurance shall be on a certificate of liability form (Acord). The certificate shall be duly completed and executed by the applicant's insurer or an agent of the insurer authorized to issue a policy on the insurer's behalf. The approved certificate of liability insurance coverage shall include any damage to the state highway system such as the road surface, shoulders, bridges, traffic control devices, utility facilities, and any other state highway system-related property which is caused by, and is the legal responsibility of, the applicant, the applicant's vehicle, and/or the applicant's officers, agents, employees, or operators. A surety bond (Form G) in accordance with 7 CSR 265-10.030 may be accepted in lieu of the certificate of liability. The bond shall be duly completed and executed by the surety and principal. Such surety bond shall be in a duration and amount as the commission may determine to be adequate for the commission's protection and to be provided by sureties or financial institutions satisfactory to the commission.**

(C) *[Insurance for all permit operations shall be in force for the duration of the permit period.]* **Cargo. Any automobile insurance policy required under this administrative rule shall not include coverage of the cargo transported under the permit, and instead, any cargo transported by the applicant under a permit issued under this administrative rule shall be insured under a separate insurance policy. Proof of cargo liability is not required to be filed with the Missouri Department of Transportation.**

(D) Filing Waiver. If the applicant has proof of public liability insurance (Form E) on file with the Missouri Highways and Transportation Commission pursuant to 7 CSR 265-10.030 or the motor carrier has been approved to be self-insured for motor carrier operations, no additional proof of insurance is required to be filed, provided the limits of liability pursuant to such public liability insurance or self-insurance is consistent with the limits established in this rule.

(E) Cancellation. The applicant shall immediately notify the Missouri Department of Transportation Motor Carrier Services director in writing of cancellation of the applicant's proof of insurance. All non-expired permits issued to the applicant shall be void and requests for additional permits shall not be granted until the applicant submits new proof of coverage consistent with this administrative rule to the Motor Carrier Services director.

(F) Rejection. Proof of insurance may be rejected and notification sent to the applicant of the rejection, if—

1. Proof of insurance was not submitted on the proper form(s) or information contained on that form has not been completed in order for the division to determine if the limits of liability have been met;

2. The form was not properly completed;

3. The limits of liability were contrary to limits established within this rule; or

4. The proof of insurance appears to be invalid or the authenticity of the document cannot be verified.

*[(D)]***(G)** Filing of Documents. Insurance companies offering motor carrier insurance certificates, cancellation notices, or other documents for filing with the division pursuant to this rule, shall deliver the documents to the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102 by any of the following methods: personal delivery, U.S. mail, express courier delivery, FAX, electronic mail (*[E]***e***[-]*mail), or other approved electronic media. A person or company that offers photocopies, FAX copies, or electronic documents for filing shall be bound by them as if they were signed originals. *[All documents offered for filing shall comply with the applicable requirements and be properly signed or otherwise authenticated in accordance with this rule.]*

(H) Failure to Comply. The Motor Carrier Services' director or his/her representative may reject an applicant's request for a permit or suspend the applicant's privileges of obtaining oversize/overweight permits for failure to comply with this section of the rule.

(I) Excessive Overweight. Permits issued for excessive overweight may require additional financial responsibility to protect the state in regard to excessive damage to the state highway system and its facilities.

(J) Refer to subsection (8)(C) for financial responsibility for escorts.

(3) Agreements and Conditions.

(A) The permittee agrees to the following conditions when a permit is issued:

1. The permittee named therein agrees to assume full responsibility for injury to persons or damage to public or private property, including the state highway system and its facilities, caused by the movement of the vehicle or its load under the special permit involved;

2. The permittee agrees to hold harmless the Missouri Highways and Transportation Commission, the Department of Transportation, the Missouri State Highway Patrol, their agents, servants**,** and employees, from any and all claims, judgments, damages**,** or expenses of any kind on the part of the applicant, permittee or any person, firm or corporation having an interest in either the vehicle, the load or other property involved in the movement over the route prescribed in said permit;

3. The permittee, as a condition to the issuance of a special permit, agrees to indemnify the Missouri Highways and Transportation Commission, the Department of Transportation, the Missouri State Highway Patrol, their agents, servants**,** or employees, for any sums which it, its agents, servants**,** or employees are or may be required to expend in defense of any claims or actions for damages and to indemnify the Missouri Highways and Transportation Commission, the Department of Transportation, the Missouri State Highway Patrol, their agents, servants**,** or employees, arising out of the movement, under this special permit, of a vehicle or load over the route prescribed by the Missouri Department of Transportation, its agents, servants**,** or employees;

4. The permittee will cause the operators of all motor vehicles involved in the movement to take all necessary precautions to avoid hazards existing along the prescribed route, such as, but not limited to, construction projects, physical restrictions or conditions which will not permit the movement of the vehicle and its load without detriment to the state highway or its drainage structure, signs, guardrails, signals, shoulders, pavement, right-of-way**,** or any other facility;

5. The permittee or their representative must physically drive the proposed route to be used prior to issuance and attest that all turns, curves, etc. can be safely negotiated if the load is greater than one hundred twenty feet (120') long. If the load does encounter problems negotiating such, the company will be charged new permit fees (including a bridge study analysis for superloads). In addition, penalties may be assessed and future permit applications may be denied.

*[5.]***6.** Should the permittee or the permittee's officers, agents, employees**,** or operators encounter a condition on the route prescribed not contemplated by the permit, or signs or markings indicating an emergency condition creating a reasonable doubt as to the continuance of the trip, the permittee, officer, agent, employee**,** or operator of the vehicle shall immediately notify the appropriate official or employee of Motor Carrier Services Division of the Missouri Department of Transportation for a suggested course of action. In any event, departure from a prescribed route, except by specific authorization of Motor Carrier Services Division, renders the permit void;

*[6.]***7.** Any misrepresentation in the application for a special permit or any operation not made in strict compliance with the permit and not in compliance with 7 CSR 10-25.020*,* except as specifically exempted, is unlawful and renders the permit void;

*[7.]***8.** Any permit used for a movement other than that for which granted**, or any permit that has been altered**, is void in its entirety and the movement involved will be in violation of the law, as though such permit had never been granted;

*[8.]***9.** Permits voided by a violation shall be surrendered to any law enforcement officer or to any employee of the Missouri Department of Transportation and permits so surrendered shall be returned to the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102;

*[9.]***10.** A new permit and required fees covering the remainder of the movement will not be issued until all charges arising out of the violation have been satisfied and the routing or movement modified to meet the regulations established herein;

*[10.]***11.** Permits are issued by authority of law only when the public safety or public interest justifies their issuance. Any misrepresentation in the application or violation of the terms of the permit may result in denial of future applications of the violator; *[and]*

*[11.]***12.** Permission is granted only for dimensions and up to the weight, as specified, and compliance in all other respects is required with Chapters 260, 301 through 307, 390, and 622 of the *Missouri Revised Statutes* as amended, all other applicable state and federal laws and rules and regulations of state and federal regulatory bodies*[.]***; and**

*[12.]***13.** All permittees are responsible for the accuracy of their permits and shall notify the Missouri Department of Transportation, Motor Carrier Services Division of any inaccuracies before movement commences.

(4) Permit Applications, Permit Transmissions**,** and Permit Fees.

(A) All over*[dimension]***size** and overweight applications should be completed and fees filed at least two (2) days prior to the date of movement, except permits covered by sections (15) and (16) should allow two (2) weeks advance notice. This will allow sufficient time for any investigations, studies or analysis necessary for the issuance of the official permit.

(B) Applications for permits are accepted in person, by mail, by telephone, and *[by computer inquiry]* **online**.

(D) Application for an over*[dimension]***size** permit must show **the width, length, and height of the commodity being hauled as well as the** overall width, **overall** length, *[length of trailer and load, overhang front and/or rear, empty deck space front and/or rear,]* and overall height. Application for an overweight permit must show axle loads and axle spacings measured center-to-center between each axle. Additional information may be required to complete the application.

(E) Special permit fees are payable prior to the issuance of the permit. If the permit becomes invalid for any reason, the original fee shall be nonrefundable and a new permit with fee will be necessary. **Applicants are responsible for payment of permit fees for expired permits that are issued and left in approved status.** Postal and telegraphic money orders, personal, company, certified**,** and cashier's checks, credit cards**,** and electronic funds shall be made payable to the "Director of Revenue*[, Credit State Road Fund]*." Cash is also accepted. The special permit fees are as follows:

1. Single trip over*[dimension]***size** permits including preissue—$15;

2. Single trip over*[dimension]***size** permits in excess of sixteen feet (16') wide, sixteen feet (16') high or one hundred fifty feet (150') long—$15 plus $250 movement feasibility fee;

3. Multi-stop over*[dimension]***size** permit—$25 (farm implements only);

4. Single trip overweight permits up to and including one hundred sixty thousand (160,000) pounds gross weight—$15 plus $20 per each ten thousand (10,000) pounds in excess of legal gross weight;

5. Single trip overweight permits in excess of one hundred sixty thousand (160,000) pounds gross weight—$15 plus $20 per each ten thousand (10,000) pounds in excess of legal gross weight plus bridge and roadway analysis fee of $425 for each permit for moves from 0–50 miles in length; $625 for 51–200 miles; $925 for over 200 miles (see section (15))**. An additional $425 bridge safety fee will be charged if the applicant modifies dimensions or weights on an application and a new bridge analysis is required after the original analysis has been completed**;

6. Annual blanket emergency overweight permit (round trip)—$624*[—]*(fee will be prorated quarterly);

7. Annual blanket over*[dimension]***size** permit—single commodity—$128 (fee will be prorated quarterly);

8. Annual blanket over*[dimension]***size** permit—multiple commodity—$400 (fee will be prorated quarterly);

9. Annual blanket overweight well drillers or concrete pump truck permit—$300 (fee will be prorated quarterly);

10. Thirty-day blanket permit—$*[30]***300**;

11. Project permit—$125;

12. Highway crossing permit—$250;

13. Noncommercial building movement (in excess of routine dimensions)—$265; *[and]*

14. Single Trip Commercial Zone Bridge Analysis—$265; and

*[14.]***15.** Permit amendment fee—$2. Single trip permits may only be amended within two (2) **business** days of permit *[issuance]* **start date**. **The start date will only be amended if permit effective date is in the future. Origin, destination and/or commodity being hauled/towed will not be amended.** Annual blanket permits may be amended **one time** throughout the year **for truck make and/or license**.

(G) Permits may be applied for and picked up at the locations listed in subsection (4)(H) during regular business hours of 7:30 a.m. to 4:00 p.m. Monday through Friday except holidays listed in paragraph (1)(I)1. Telephone applications are accepted from *[7:30]* **7:00** a.m. until *[3:45]* **5:00** p.m. at (800) 877-8499 or (573) 751-7100 Monday through Friday except holidays listed in section (1). Internet access is also available twenty-four (24) hours a day, seven (7) days a week.

(I) All permits may be transmitted by facsimile machine, Internet or electronic mail from the Motor Carrier Services Division located in Jefferson City only. Division facsimile transmission costs and telephone costs are included in the permit fee (see subsection (4)(E)). The following requirements and procedures apply:

1. For facsimile receiving, the equipment must be fully automatic which may require a dedicated telephone line with unattended operation capabilities; and

2. Proper arrangement for payment of permit fee must be made either by use of escrow accounts, which must be in effect prior to permit application request (see section *[(6)]***(5)**), or by payment of the fee at the time of application. Permits can only be amended by Motor Carrier Services Division's staff, as outlined under the circumstances in paragraph (4)(E)*[14.]***15.**

[(5) Pre-Issued Permits.

(A) Pre-issued permits may be requested for the purpose of transporting loads that are overdimension only with a maximum width of twelve feet four inches (12'4"). Travel under pre-issued permits must be completed in seven (7) days. To obtain pre-issued permits, contact the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102, for an application.

(B) The applicant's name and complete address will be preprinted on each pre-issued form.

(C) To place a pre-issued permit form into effect, the applicant shall contact the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102, at the number listed on the form and provide the required information to complete the form. Upon approval, the applicant shall complete the form in a legible manner. Movement may then be made under provisions of the permit and all other applicable permit regulations. Changes or eraser marks void the permit.

(D) Upon completion of a move, the original pre-issued permit shall be mailed no later than eight (8) hours after the move to the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102. Should the permit not be used, it is to be mailed to the same office no later than eight (8) hours after its assigned expiration date.

(E) Violation of or abuse of the privilege for obtaining pre-issued permits may result in immediate termination of such privilege and require relinquishment of all unused blank permit forms. No refunds will be made for any permit voided by the termination of pre-issued permit privileges.

(F) Pre-issued permit forms are nontransferable, and cannot be reproduced. No refunds will be made for pre-issued forms voided, canceled, relinquished, stolen or lost. A pre-issued account may be closed by submitting a written request, and returning all unused pre-issued forms to the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102. A refund for returned pre-issued forms will be processed.]

*[(6)]***(5)** Escrow Accounts.

(A) An escrow account may be established with the Missouri Department of Transportation. The following conditions govern the establishment and maintenance of escrow accounts:

1. An escrow account may be applied for by submitting an application supplying all the necessary information. Applications may be obtained from the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102, or established on*[-]*line;

2. Upon approval of application, the applicant will be assigned an account number that must be given with each transaction. The account holder is responsible for all charges filed against the account;

[3. Motor Carrier Services Division in Jefferson City shall provide quarterly statements showing charges, deposits and account balance;]

*[4.]***3.** The account holder may replenish his/her escrow account at any time via phone, Internet, mail**,** or in person*[. A minimum deposit of one hundred dollars ($100) is required to open an account]*; and

*[5.]***4.** An escrow account will remain open as long as there is a positive **or zero** balance. Upon written request, an account may be closed and the unused balance will be refunded.

(B) It shall be the responsibility of the account holder to maintain records of the balance remaining in the account. In the event there is a difference between the account holder's records and the department's records, a letter stating the difference shall be the basis for review and adjustment. The department's decision shall be final.

(C) The escrow account is nontransferable and shall be used for payment only. The account shall be reduced by the amount for each item issued or processed.

*[(7)]***(6)** Annual Blanket Permits. Blanket permits may be issued for moves up to and including twelve feet four inches (12'4") in width and one hundred fifty feet zero inches (150'0") in overall length. Height and weight shall be in accordance with Chapter 304 of the *Missouri Revised Statutes*. The fee schedule for blanket permits is outlined in subsection (4)(E). Separate permits are required for each power unit. To qualify for an annual blanket permit, insurance must be in force for the entire period (see section (2)) and vehicles must be properly licensed. Annual blanket permits are issued only by the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102. All annual permits will expire at 12:00 a.m. on January 1 of the following year. Violation of a blanket permit shall be cause for revocation of the current blanket permit and may result in loss of the privilege of obtaining future blanket permits. Blanket permit moves shall be made in accordance with all other regulations and requirements. The permittee is required to obtain current travel restrictions prior to movement with blanket permits.

(A) These permits authorize travel over the state highway system only. Movement from origin to destination must be by the most feasible direct route. All conditions, safety considerations, bridge loading and clearance postings shall be complied with. The permittee shall properly warn traffic, adjust speed, and if necessary, stop traffic when crossing bridges where the load exceeds one-half (1/2) the roadway width of the bridge. Travel over structures on which load limits are posted for lesser weights is not allowed. Permittees traveling on interstate highways shall maintain the posted minimum speed.

(B) Single Commodity.

1. Manufactured and sectional home units. Annual blanket permits are available for the movement of manufactured and sectional home units up to and including twelve feet four inches (12'4") in width and one hundred fifty feet (150') in overall length. Height and weight shall be legal.

2. Farm products (hay). Annual blanket permits are available for farm products (hay) up to and including twelve feet four inches (12'4") in width. All other sizes and weight shall be legal. Farm products (hay) will not be required to comply with the reducible load requirement for width.

*[2.]***3.** Farm implements*[, farm products (hay),]* **and** construction equipment. Annual blanket permits are available for these moves up to and including twelve feet four inches (12'4") in width*[. All other dimensions and weight shall be legal.]* **and/or overall length up to a maximum of one hundred fifty feet (150'). Height and weight shall be legal.** Farm implements or equipment not designed for towing at highway speeds must be hauled. If the equipment is designed to be towed, it shall meet all regulatory safety requirements. Farm *[products (hay) and]* equipment with dual tires will not be required to comply with the reducible load requirement for width.

*[3.]***4.** One hundred (100)-mile radius blanket for farmers and farm implement dealers. Annual blanket permits are available to farm implement dealers and farmers for movement of farm implements up to and including fourteen feet six inches (14'6") in width. All other dimensions and weight shall be legal. This blanket is only valid for moves within a one hundred (100) mile radius of permittee's principal place of business. All other permit regulations, including but not limited to times of travel, signing**,** and esco**r**ts*[)]***,** will apply. Farm implements not designed for towing at highway speeds must be hauled. If the equipment is designed to be towed, it shall meet all regulatory safety requirements.

*[4.]***5.** Implements of husbandry and transporting vehicle. Annual blanket permits are available for movement up to and including twelve feet four inches (12'4") in width. All other dimensions and weight shall be legal. Implements of husbandry are machines designed specifically for the application of commercial plant-food materials or agricultural chemicals and off-road usage. Such units shall not operate under their own power on the interstate system.

*[5.]***6.** Repeated moves of like objects. Annual blanket permits for the movement of specific nonreducible commodities may be issued to a maximum width of twelve feet four inches (12'4") and/or overall length up to a maximum of one hundred fifty feet (150'). Height and weight shall be legal. The following items may be considered: boats, portable buildings, wood trusses, steel trusses, plates, beams, angles, pipe or piling, reinforcing steel mesh, rods or bars, tanks, mobile office trailers, grain carts, cotton trailers, park trailers, precast concrete panels, aluminum plates, wood beams**,** and concrete girders. The permit will describe and specify the object to be hauled. A blanket permit may be issued for the repeated movement of objects for permanent use in their transported form. Such objects may vary in size as long as the largest is within the width and/or length limit specified on the permit. Multipiece loads must be nonreducible and nondivisible in dimension.

(C) Multiple Commodity. Annual blanket permits are available to haul any commodity up to and including twelve feet four inches (12'4") wide and one hundred fifty feet (150') overall length. Height and weight shall be legal. MULTIPIECE LOADS SHALL BE NONREDUCIBLE AND NONDIVISIBLE.

(D) Blanket permits are also available for items that may be over*[dimension]***size** or overweight with varying operation areas and

time periods. These blanket permits may be issued as explained in the following paragraphs:

1. Thirty (30)-day blanket. Blanket permits up to and including twelve feet four inches (12'4") wide and/or overall length up to and including one hundred fifty feet (150') covering specified travel over listed routes may be issued for a period not exceeding thirty (30) days to expedite construction or repair of public utilities or public works clearly in the public interest**. Height must be legal**;

2. Well-drilling blanket. Blanket permits for well-drilling rigs may be issued to a maximum width of twelve feet four inches (12'4"), and/or overlength to a maximum of sixty feet (60') for single units and weights not to exceed twenty thousand (20,000) pounds or legal weight on a single axle, forty thousand (40,000) pounds on a tandem axle group or sixty thousand (60,000) pounds on a triple or quadrum axle group and a gross weight not to exceed the maximum allowable gross weight according to the number of axles and the specified axle spacings as shown on the weight table in subsection (11)(G). Equipment classified for use in well-drilling work is a single unit designed primarily to drill wells. The unit shall be reduced in *[dimension]***size** as much as practical. Drill bits and other necessary drilling tools may be carried with the drill rig provided the permitted axle and gross vehicle weight are not exceeded. The permit authorizes travel over the state highway system only and the unit must be able to maintain the posted minimum speed on the interstate system. Travel over bridge structures on which a load limit is posted for lesser weights is not allowed;

3. Emergency response blanket. Annual blanket permits for the initial response and direct return from an emergency are available up to and including twelve feet four inches (12'4") in width, one hundred fifty feet (150') in length and maximum axle weights and gross weight as allowed in section (11). Height shall be legal. This permit authorizes travel over the state highway system only. Travel over bridge structures on which a load limit is posted for lesser weight is not allowed. The restriction prohibiting travel in tourist areas, during curfew hours, at night and on holidays or holiday weekend periods will be waived for the initial response to the emergency site. Clearance lights in lieu of flags and reflectorized oversize load signs are required for night travel. See section (12) for additional procedures for emergency travel;

4. Public utility. Blanket overlength permits not exceeding one hundred fifty feet (150') in length (width, height and weight must be legal) may be issued to a public utility company, a public agency or their contractor to transport poles or pipe for minor construction, reconstruction, replacements or emergency repairs. Such permits shall be issued for each power unit to travel from the nearest available pole or pipe storage yard. The restriction prohibiting travel in tourist areas, during curfew hours, at night and on holidays or holiday weekend periods is waived for emergency repairs. Clearance lights in lieu of flags and reflectorized oversize load signs are required for night travel (see subsection (12)(J));

5. Sludge disposal units. Blanket permits are available for travel on the state highway system other than the interstate and shall not exceed eleven feet six inches (11'6") in width. All other dimensions and weight shall be legal;

6. Concrete pump truck blanket. Blanket permits for concrete pump trucks may be issued to a maximum width of twelve feet four inches (12'4"), and/or overlength to a maximum of sixty feet (60') for single units and weights not to exceed twenty thousand (20,000) pounds or legal weight on a single axle, forty thousand (40,000) pounds on a tandem axle group or sixty thousand (60,000) pounds on a triple or quadrum axle group and a gross weight not to exceed the maximum allowable gross weight according to the number of axles and the specified axle spacings as shown on the weight table in subsection (11)(G). This permit authorizes travel over the state highway system only and the vehicle must be able to maintain the posted minimum speed on the interstate system. Travel over bridge structures on which a load limit is posted for lesser weights is not allowed.

7. Projects. Blanket permits are available for the movement and/or operation of over*[dimension]***size** and overweight road-building equipment within the limits of a specific highway project or combination of projects, for a period not to exceed the completion date of that project. The permittee shall coordinate movement and/or operation necessity and procedures with the project engineer and collectively submit a permit application containing all pertinent information to include any special or unusual circumstances with a recommendation to the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102; *[and]*

8. Longer combination vehicles (LCV) blanket permits. This permit may include combinations defined as Rocky Mountain Doubles (RMD), Turnpike Doubles (TPD), and triple-trailers currently allowed to operate on turnpikes in other states. Annual blanket permits are available for longer combination vehicles up to one hundred twenty feet (120') in overall length to travel to and from locations within twenty (20) miles of the western border of this state. **One hundred twenty thousand (120,000) pounds is allowed for LCVs entering from the Kansas border. Ninety-five thousand (95,000) pounds is allowed for LCVs entering from the Nebraska border, and ninety thousand (90,000) pounds is allowed for LCVs entering from the Oklahoma border.** All other dimensions *[and weight]* shall be legal. This permit authorizes travel over specified routes on the state highway system*[.]***; and**

9. Government agency. Annual blanket permits are available for government agencies up to and including twelve feet four inches (12'4") in width, one hundred fifty feet (150') in length and maximum axle weights and gross weight as allowed in section (11). Height shall be legal.

(7) Crossing Permits and Commercial Zone Bridge Analysis.

(A) Highway crossing. A single-day permit is available to allow off-road machinery to be transported or driven across a state maintained highway in order to access adjacent properties. Size and weight limitations will be based on physical restrictions at the location of the crossing; and

(B) Commercial Zone Bridge Analysis. A bridge analysis is available for loads moving under legal commercial zone weight limits that are too heavy to cross a posted structure. Applications must include information as outlined in subsection (4)(D).

(9) Regulations for All Permits. The following regulations apply to all movements of over*[dimension]***size** and/or overweight loads except as stipulated in sections *[(7)]***(6)**, (11), (12), (13), (14), (15)**,** and (16):

(B) Travel is limited to one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset, except as permitted in subsection (9)(E) of this rule and sections *[(7)]***(6)**, (11), (12), (13), (14)**,** and (15). No movement is allowed when road conditions are hazardous, such as snow and ice covered or when hazardous cross winds affect the movement or when weather conditions are such to limit the visibility to less than five hundred feet (500');

(10) Regulations for Over*[dimension]***size** Permits. In addition to the regulations in sections *[(7)]***(6)**, (9), (13), (14), (15)**,** and (16); the following applies to all over*[dimension]***size** permits:

(B) The following Missouri and Mississippi River bridges may be used for the movement of loads in excess of ten feet six inches (10'6") in width. If the load exceeds one-half (1/2) the width of the roadway on the two (2)-lane bridges, a flagger shall be used to stop all oncoming traffic at the far end of the structure before the vehicle and load can proceed across. No movement will be allowed where flagging is necessary between the hours of 6:30 to 9:00 a.m. and 3:00 to 6:00 p.m.

MISSOURI RIVER BRIDGES

Location	Route	Roadway Width
Brownville, NE	U.S. 136	22'6"
Rulo, NE	U.S. 159	20'0"
St. Joseph	U.S. 36	Dual Bridges
Atchison, KS	U.S. 59	24'0"
Leavenworth, KS	MO 92	26'0"
Waverly	U.S. 24/ U.S. 65	44'0"
Miami	MO 41	23'0"
Boonville	MO 5/ U.S. 40	40'0"
Glasgow	MO 240	20'3"
Rocheport	I-70	Dual Lanes
Jefferson City	U.S. 63/ U.S. 54	Dual Bridges
Hermann	**MO 19**	**44'0"**
Washington	MO 47	22'0"
Lexington	MO 13	Dual Lanes
Kansas City Area		
Platte County (KCI)	I-435	Dual Bridges
Riverside	I-635	Dual Lanes
Fairfax	U.S. 69	Dual Bridges
Broadway	U.S. 169	Dual Lanes
Heart of America	MO 9	Dual Lanes
Paseo	I-29/I-35	Dual Lanes
Randolph	I-435	Dual Lanes
Liberty (Courtney)	MO 291	Dual Bridges
St. Louis Area		
Weldon Springs	40/61 (I-64)	Dual Bridges
Blanchette	I-70	Dual Bridges
St. Charles (Discovery Br)	MO 370	Dual Bridges
St. Charles (West Alton)	U.S. 67	Dual Bridges
Page Avenue	MO 364	Dual Bridges

MISSISSIPPI RIVER BRIDGES

Location	Route	Roadway Width
Hannibal	I-72/U.S. 36	Dual Lanes
Louisiana	U.S. 54	20'0"
Quincy, IL	U.S. 24	Dual Bridges
Alton, IL	U.S. 67	Dual Lanes
Louisiana	U.S. 54	20'0"
St. Louis City (Chain of Rocks)	I-270	Dual Lanes
St. Louis (Jefferson Barracks)	I-255	Dual Bridges
Chester, IL	MO 51	22'0"
Cape Girardeau	MO 74	Dual Lanes
Cairo, IL	I-57	Dual Lanes
Caruthersville	I-155	Dual Lanes

(C) Permit movements on Mississippi River, Missouri River, and Lake of the Ozarks bridges are permanently restricted as designated below.

No **overweight or oversize** permit movement on the following Mississippi River Bridges:

Location	Route
St. Louis City (Poplar Street)	I-70/I-55/I-64
St. Louis City (MLK)	MO 799
Cairo, IL	U.S. 60/U.S. 62

No **overweight** permit movement *[exceeding 10'6" in width]* on the following Missouri River Bridges:

Location	Route
*[Hermann]***Miami**	*[MO 19]***MO 41**
Glascow	**MO 240**
Washington	**MO 47**

No overweight permit movement on the following Lake of the Ozarks Bridge:

Location	Route
Hurricane Deck	**MO 5**

*[(C)]***(D)** Overlength permits shall be limited to a nonreducible vehicle and load with an overall length for a single unit not exceeding sixty feet (60') and for combination units not exceeding one hundred fifty feet (150'). Steering mechanisms may be required on rear axles of combination units.

*[(D)]***(E)** Overheight permits for all movements will be limited to a nonreducible combination of vehicle and load height not exceeding the vertical clearance of the structures on the most feasible direct route between origin and destination. Arrangements for the raising or removal of overhead lines will be the responsibility of the permittee. It is also the responsibility of the permittee to check all structures and overhead wires for clearances before movement.

*[(E)]***(F)** The movement of noncommercial buildings exceeding routine special permit dimension limitations will be determined on an individual basis dependent on building size, roadway and structure width and clearances, traffic volumes**,** and other applicable factors. Permits for movement of such buildings shall be issued by the district offices (see section (16)).

*[(F)]***(G)** Movement of farm products (hay) up to, but not exceeding, fourteen feet (14') in width will be allowed by permit. These movements must comply with all existing Missouri over*[dimension]***size** and overweight permit regulations except reference to reducible loads in subsection (1)(B) shall not apply. The hauling unit must be properly insured and licensed.

*[(G)]***(H)** Night movement for hauling hay up to fourteen feet (14') in width will be allowed by single trip permit. This movement will require a front and a rear escort on all two (2)-lane and multi-lane undivided highways. A rear escort is required on interstate and other dual lane divided highways. Oversize load signs are required and shall be lighted or reflectorized. Clearance lights in lieu of flags shall be mounted at extreme ends or load projections when moving after daylight hours and/or when visibility is less than five hundred feet (500'). Continuous, uninterrupted two-way communication is required between the power unit and all escort vehicles. Movement is restricted for urban and tourist areas as outlined in subsections (9)(D) and (9)(E). Movement is restricted for holiday periods as outlined in subsection (1)(I).

(11) Regulations for Routine Overweight Permits. The following regulations apply to permit moves to transport nonreducible and nondivisible loads. See section (15) for super heavy and large load movement:

(A) Overweight permits may specify maximum and minimum speeds and method of vehicle operation to reduce hazards or control impact factors and load distribution on pavements and bridges. Overweight loads not over*[dimensional]***size** and not exceeding the gross weight limit as listed in subsection (11)(D) will be granted day and night movement except travel during holiday and holiday weekend periods as listed in subsection (1)(I) and except for movement in tourist areas listed in subsection (9)(D). All movements authorized under overweight permits will be over specified routes on the state highway system only;

(B) Axles included in booster axle, tandem axle, triple axle or quadrum axle groups on all hauling units shall be equipped with dual

wheels or equivalent tread width. When configuring trailers for hauling units with seven (7) or more axles, conventional axles or booster axles may be used for the addition of the single axle**,** [*or*] tandem axle**, or triple axle** groups that may be placed at the end of the trailer. Definitions—

1. The term "axle" shall mean a common axis of rotation of one or more wheels whether power-driven or freely rotating, and regardless of the number of wheels carried thereon;

2. The term "axle group" shall mean an assembly of two (2) or more consecutive axles considered together in determining their combined load effect on pavement or structures. Axle groups must have a common equalization system**,** which will equalize the load between or among axles in both static and dynamic conditions. Any combination of mechanically equalized axles with either air suspension or any other suspension system used to form axle groups is not allowed;

3. The term "spread axles" shall mean two (2) axles**,** which are more than ninety-six inches (96") apart and are considered single axles;

4. The term "tandem axle" shall mean a group of two (2) or more axles arranged one behind another, where the distance between the extreme centers is more than forty inches (40") and not more than ninety-six inches (96") apart;

5. The term "triple axle or tridem" shall mean a group of three (3) axles**,** which are fully equalized automatically or mechanically and the distance between the centers of the extreme is more than ninety-six inches (96") and not more than one hundred forty-four inches (144");

6. The term "quadrum axle" shall mean a group of four (4) axles**,** which are fully equalized automatically or mechanically, the distance between each of the four (4) axles is evenly spaced and the distance between the centers of the extreme is not more than one hundred ninety-two inches (192");

7. The term "lift axle" shall mean any axle designed with the capabilities of manipulation or adjustment of the weight on it or the axle group by use of manual valve(s). Under no circumstances will "lift axles" be recognized in weight computations. An additional axle may be added to an existing axle group provided—

A. All axles have a common equalization system;

B. All equalization is accomplished with automatic valves; and

C. Axle lifting mechanism is located outside the cab, not readily accessible to driver; and

8. The term "booster axle" shall mean an extension of a hauling unit**,** which when attached to the trailer adds a single axle, **tandem,** or *[tandem]* **triple** axle group. To be acceptable, a booster axle must connect to the vehicle frame in such a manner as to equalize the load between axles;

(C) The allowable combination configurations for overweight special permits are as follows:

5-Axle Configurations
Single-Tandem-Tandem (1-2-2)
Single-Tandem-Spread (1-2-2)
Minimum distance between the centers of the first and last axles is fifty-one feet (51').
Maximum gross weight allowed on a 5-axle configuration is *[ninety-two thousand (92,000)]* **one hundred four thousand (104,000)** pounds.

6-Axle Configurations
Single-Tandem-Triple (1-2-3)
Single-Triple-Tandem (1-3-2)
Minimum distance between the centers of the first and last axle is *[forty-three feet (43')]* **fifty-one feet (51')**.
Maximum gross weight allowed on a 6-axle configuration is *[one hundred twelve thousand]* **one hundred twenty thousand (120,000)** pounds *[(112,000)]*.

Configuration lengths from forty-three feet (43') up to fifty-one feet (51') will be allowed provided that the maximum gross weight on these configurations does not exceed one hundred twelve thousand (112,000) pounds. When the configuration length is less than fifty-one feet (51'), the maximum gross weight on any tandem axle grouping shall be forty thousand (40,000) pounds and the maximum gross weight on any tridem axle grouping shall be sixty thousand (60,000) pounds.

7-Axle Configurations
Single-Triple-Triple (1-3-3) (Routine Configuration)
Single-Tandem-Quad (1-2-4) (Alternative Configuration)
Single-Tandem-Triple-Single (1-2-3-1)
Single-Triple-Tandem-Single (1-3-2-1)
Single-Tandem-Tandem-Tandem (1-2-2-2)
Minimum distance between the centers of the first and last axles is fifty-five feet (55') for the routine configuration, seventy-five feet (75') for the alternative configuration, and sixty-nine feet (69') for all other configurations.
The following axle group spacing limitation will apply to all of the configurations as shown above, but will not apply to the steering axle. A minimum distance of fourteen feet (14') shall be required between centers of adjacent axles on consecutive tandem, triple and quad axle groupings and on single axles used in combination with these groupings.
Maximum gross weight allowed on a 7-axle configuration is *[one hundred twelve thousand (112,000)]* **one hundred thirty thousand (130,000)** pounds for the alternative configuration**,** *[and]* **one hundred thirty-two thousand (132,000) pounds for the routine configuration, one hundred thirty-eight thousand (138,000) pounds for the 1-2-3-1 and 1-3-2-1 configurations, and** *[one hundred thirty-two thousand (132,000)]* **one hundred fifty thousand (150,000)** pounds for *[all other]* **the 1-2-2-2** configuration*[s]*.

8-Axle Configurations
Single-Triple-Quad (1-3-4) (Routine Configuration)
Single-Tandem-Tandem-Triple (1-2-2-3)
Single-Triple-Triple-Single (1-3-3-1)
Single-Triple-Tandem-Tandem (1-3-2-2)
Single-Tandem-Triple-Tandem (1-2-3-2)
Minimum distance between the centers of the first and last axle is sixty-one feet (61') for the routine configuration and seventy-five feet (75') for all other configurations.
The following axle group spacing limitation will apply to all of the configurations as shown above, but will not apply to the steering axle. A minimum distance of fourteen feet (14') shall be required between centers of adjacent axles on consecutive tandem, triple and quad axle groupings and on single axles used in combination with these groupings.
Maximum gross weight allowed on an 8-axle configuration is *[one hundred thirty-two thousand (132,000)]* **one hundred forty-four thousand (144,000)** pounds for the routine configuration and *[one hundred fifty-two thousand (152,000)]* **one hundred sixty thousand (160,000)** pounds for all other configurations.

9-Axle Configurations
Single-Triple-Tandem-Triple (1-3-2-3) (Routine Configuration)
Single-Quad-Quad (1-4-4) (Alternative Configuration)
Single-Tandem-Triple-Triple (1-2-3-3)
Single-Triple-Quad-Single (1-3-4-1)
Single-Triple-Triple-Tandem (1-3-3-2)
Single-Tandem-Tandem-Tandem-Tandem (1-2-2-2-2)
Minimum distance between the centers of the first and last axle is seventy-five feet (75') for all configurations. The following axle group spacing limitation will apply to all of the configurations as shown above except for the alternative configuration, but will not apply to the steering axle. A minimum of fourteen feet (14') shall be required between centers of adjacent axles on consecutive tandem,

triple and quad axle groupings and on single axles used in combination with these groupings. When the alternative configuration is used, a minimum distance of thirty feet (30') shall be required between centers of adjacent axles on the consecutive quad axle groupings.

Maximum gross weight allowed on a 9-axle configuration is *[one hundred thirty-two thousand (132,000)]* **one hundred fifty-six thousand (156,000)** pounds for the alternative configuration and one hundred sixty thousand (160,000) pounds for all other configurations.

10-Axle Configurations

Single-Triple-Triple-Triple (1-3-3-3) (Routine Configuration)
Single-Tandem-Tandem-Tandem-Triple (1-2-2-2-3)
Single-Triple-Tandem-Tandem-Tandem (1-3-2-2-2)
Single-Tandem-Triple-Tandem-Tandem (1-2-3-2-2)
Single-Tandem-Tandem-Triple-Tandem (1-2-2-3-2)

The minimum distance between the centers of the first and last axle is eighty-five feet (85') for all configurations.

The following axle group spacing limitation will apply to all of the configurations as shown above except for the routine configuration, but will not apply to the steering axle.

A minimum of fourteen feet (14') shall be required between centers of adjacent axles on consecutive tandem and triple axle groupings. When the routine configuration is used, a minimum distance of twenty feet (20') shall be required between centers of adjacent axles on the consecutive triple axle groupings.

When possible, the distribution of the loading to the various axle groupings should be done in a manner to equalize the loadings to all of the axles on the entire configuration. When full equalization between the axles on the configuration is not possible, the gross weight variation between the individual axles (excluding the steering axle) on the entire configuration shall not be more than twenty-five percent (25%).

The maximum gross weight allowed on a 10-axle configuration is one hundred sixty thousand (160,000) pounds.

11-Axle Configurations

Single-Tandem-Tandem-Triple-Triple (1-2-2-3-3)
Single-Tandem-Triple-Tandem-Triple (1-2-3-2-3)
Single-Triple-Tandem-Tandem-Triple (1-3-2-2-3)
Single-Triple-Triple-Tandem-Tandem (1-3-3-2-2)
Single-Triple-Tandem-Triple-Tandem (1-3-2-3-2)
Single-Tandem-Triple-Triple-Tandem (1-2-3-3-2)

The minimum distance between the centers of the first and last axle is eighty-five feet (85') for all configurations.

The following axle group spacing limitation will apply to all of the configurations as shown above, but will not apply to the steering axle. A minimum distance of fourteen feet (14') shall be required between centers of adjacent axles on consecutive tandem and triple axle groupings.

When possible, the distribution of the loading to the various axle groupings should be done in a manner to equalize the loadings to all of the axles on the configuration.

When full equalization between the axles on the configuration is not possible, the gross weight variation between the individual axles (excluding the steering axle) on the entire configuration shall not be more than twenty-five percent (25%).

The maximum gross weight allowed on an 11-axle configuration is one hundred sixty thousand (160,000) pounds.

12-Axle Configurations

Single-Tandem-Triple-Triple-Triple (1-2-3-3-3)
Single-Triple-Tandem-Triple-Triple (1-3-2-3-3)
Single-Triple-Triple-Tandem-Triple (1-3-3-2-3)
Single-Triple-Triple-Triple-Tandem (1-3-3-3-2)

The minimum distance between the centers of the first and last axle is eighty-five feet (85') for all configurations.

The following axle group spacing limitation will apply to all of the configurations as shown above, but will not apply to the steering axle. A minimum distance of fourteen feet (14') shall be required between centers of adjacent axles on consecutive tandem and triple axle groupings.

When possible, the distribution of the loading to the various axle groupings should be done in a manner to equalize the loadings to all of the axles on the configuration.

When full equalization between the axles on the configuration is not possible, the gross weight variation between the individual axles (excluding the steering axle) on the entire configuration shall not be more than twenty-five percent (25%).

The maximum gross weight allowed on a 12-axle configuration is one hundred sixty thousand (160,000) pounds.

(D) The maximum allowable axle weights for permits are as follows:

1. Single axle—twenty thousand (20,000) pounds;

2. Tandem axle group—*[forty thousand (40,000)]* **forty-six thousand (46,000)** pounds, but not more than *[twenty-one thousand (21,000)]* **twenty-four thousand (24,000)** pounds**,** for any *[one (1)]* axle of a multi-axle group;

3. Triple axle group—sixty thousand (60,000) pounds, but not more than twenty-one thousand (21,000) pounds**,** for any *[one (1)]* axle of a multi-axle group;

4. Quadrum axle group—*[sixty thousand (60,000)]* **seventy-two thousand (72,000)** pounds, but not more than *[sixteen thousand (16,000)]* **nineteen thousand (19,000)** pounds**,** for any *[one (1)]* axle of a quadrum axle group; and

(G) The maximum allowable gross weight in pounds **for specialized equipment** shall be determined by the number of axles and the distance between the external axles as indicated in the following chart:

GROSS WEIGHT TABLE
Specialized Equipment 2, 3, 4, 5, 6 Axles

Feet	Legal Wt. 2 Axle	Permit Max. 2 Axle	Legal Wt. 3 Axle	Permit Max. 3 Axle	Legal Wt. 4 Axle	Permit Max. 4 Axle	Legal Wt. 5 Axle	Permit Max. 5 Axle	Legal Wt. 6 Axle	Permit Max. 6 Axle
4	34,000	40,000								
8	34,000	40,000	34,000	42,500						
9	39,000	40,000	42,500	53,125						
10	40,000	40,000	43,500	54,375						
11			44,000	55,000						
12			45,000	56,250	50,000	62,500				
13			45,500	56,875	50,500	63,125				
14			46,500	58,125	51,500	64,375				
15			47,000	58,750	52,000	65,000				
16			48,000	60,000	52,500	65,625	58,000	72,500		
17			48,500		53,500	66,875	58,500	73,125		
18			49,500		54,000	67,500	59,000	73,750		
19			50,000		54,500	68,125	60,000	75,000		
20			51,000		55,500	69,375	60,500	75,625	66,000	85,260
21			51,500		56,000	70,000	61,000	76,250	66,500	86,840
22			52,500		56,500	70,625	61,500	76,875	67,000	88,420
23			53,000		57,500	71,875	62,500	78,125	68,000	90,000
24			54,000		58,000	72,500	63,000	78,750	68,500	91,500
25			54,500		58,500	73,125	63,500	79,375	69,000	93,160
26			55,500		59,500	74,375	64,000	80,000	69,500	94,740
27			56,000		60,000	75,000	65,000	81,250	70,000	96,320
28			57,000		60,500	75,625	65,500	81,875	71,000	97,900
29			57,500		61,500	76,875	66,000	82,500	71,500	99,480
30			58,500		62,000	77,500	66,500	83,125	72,000	101,050
31			59,000		62,500	78,125	67,500	84,375	72,500	102,630
32			60,000		63,500	79,375	68,000	85,000	73,000	104,210
33					64,000	80,000	68,500	85,625	74,000	105,790
34					64,500		69,000	86,250	74,500	107,370
35					65,500		70,000	87,500	75,000	108,950
36					66,000		70,500	88,125	75,500	110,530
37					66,500		71,000	88,750	76,000	112,110
38					67,500		72,000	90,000	77,000	113,680
39					68,000		72,500	90,625	77,500	115,260
40					68,500		73,000	91,250	78,000	116,890
41					69,500		73,500	91,875	78,500	118,420
42					70,000		74,000	92,500	79,000	120,000
43					70,500		75,000	93,750	80,000	
44					71,500		75,500	94,375		
45					72,000		76,000	95,000		
46					72,500		76,500	95,625		
47					73,500		77,500	96,875		
48					74,000		78,000	97,500		
49					74,500		78,500	98,125		
50					75,500		79,000	98,750		
51					76,000		80,000	100,000		
52					76,500					
53					77,500					
54					78,000					
55					78,500					
56					79,500					
57					80,000					

GROSS WEIGHT TABLE
Specialized Equipment with 7, 8, 9 Axles

Feet	Legal Wt. 7 Axle	Permit Max. 7 Axle	Legal Wt. 8 Axle	Permit Max. 8 Axle	Legal Wt. 9 Axle	Permit Max. 9 Axle
24	74,000	92,800				
25	74,500	94,400				
26	75,000	96,000				
27	75,500	97,600				
28	76,500	99,200				
29	77,000	100,800				
30	77,500	102,400				
31	78,000	104,000				
32	78,500	105,000				
33	79,000	107,200				
34	80,000	108,800		108,800		
35		110,400		110,400		
36		112,000		112,000		
37		113,600		113,600		
38		115,200		115,200		
39		116,800		116,800		
40		118,400		118,400		
41		120,000		120,000		
42		121,600		121,600		
43		123,200		123,200		123,200
44		124,800		124,800		124,800
45		126,400		126,400		126,400
46		128,000		128,000		128,000
47		129,600		129,600		129,600
48		131,200		131,200		131,200
49		132,800		132,800		132,800
50		134,400		134,400		134,400
51		135,520		136,000		136,000
52		136,640		137,600		137,600
53		137,760		139,200		139,200
54		138,880		140,800		140,800
55		140,000		142,400		142,400
56				144,000		144,000
57				144,800		144,800
58				145,600		145,600
59				146,400		146,400
60				147,200		147,200
61				148,000		148,000
62				148,800		148,800
63				149,600		149,600
64				150,000		150,000
65				151,200		151,200
66				152,000		152,000

If the specialized equipment exceeds the:

1. Allowable weight on an axle or axle group;
2. Gross weight for the number of axles; or
3. Does not meet the required axle spacings for the number of axles;

the permit request will be considered according to the rules of section (15).

(12) Procedures for Emergency Movements.

(A) Railroad derailments and other civil disasters may create the necessity for an emergency movement by over*[dimension]***size** /overweight vehicles.

(I) Escort vehicles shall travel approximately three hundred feet (300') in front on two (2)-lane pavement or approximately three hundred feet (300') in rear on dual lane or multi-lane undivided pavement. Escort vehicles shall use clearance lights in lieu of flags and reflectorized oversize load signs **are required for travel at night or** when visibility is less than five hundred feet (500'). Escort vehicles will not be allowed to convoy movements.

(J) In addition to the special provisions contained herein, the permittee shall use clearance lights in lieu of flags at the extreme edges of an overwidth load and reflectorized oversize load signs mounted on the front and rear of the vehicle and load when visibility is less than five hundred feet (500') and shall observe all other Missouri over*[dimension]***size** and overweight permit regulations.

(L) Blanket permits for emergency movements, if authorized, in lieu of verbal procedure, require special procedures in addition to those previously mentioned (see section *[(7)]***(6)**).

1. Such blanket permits will be valid only for the initial response to an emergency and the return trip from that emergency. Movement for purposes other than to or from an emergency response will require a single trip permit be obtained during regular working hours and must comply with the permit regulations' limitations for weight and dimensions.

(13) Regulations for the movement of loads over twelve feet four inches (12'4") to fourteen feet (14') wide. The following requirements in addition to the requirements of over*[dimension]***size** and overweight permit regulations for movement of loads up to twelve feet four inches (12'4") in width shall apply to all loads over twelve feet four inches (12'4") to fourteen feet (14') in overall width.

(A) Restrictions and Requirements. Bridge crossings may require stopping traffic on two (2)-lane highways where bridge width is less than twenty-eight feet (28'); a distance of at least one thousand feet (1,000') between over*[dimension]***size** vehicles is required; escorts may act as flaggers.

1. Travel on interstate and other divided highways allowed from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset except where restricted in tourist and urban areas (see subsections (9)(D) and (9)(E)) and as prohibited by holiday restrictions in subsection (1)(I).

2. No movement **Monday through Friday** from 6:30 a.m. to 9:00 a.m. and 3:30 p.m. to 6:00 p.m. on all other routes on the state highway system and no movement allowed on Saturday and Sunday in tourist areas (see subsection (9)(D)).

(B) Escort Requirements. One (1) escort is required for each over*[dimension]***size** unit on the interstate and designated route system. This escort shall be in the rear on dual-lane, divided, or multi-lane pavement and in the front on two (2)-lane pavement. Travel on routes off interstate and designated route system will require two (2) escorts (one (1) front and one (1) rear). Continuous, uninterrupted two-way communication is required between the power unit and all escort vehicles.

(14) Regulations for the movement of loads over fourteen feet (14') to sixteen feet (16') overall width. The following requirements, in addition to the requirements of over*[dimension]***size** and overweight permit regulations for movement of loads up to twelve feet four inches (12'4") in width, shall apply to the movement of allowed loads. Farm products (hay) shall not exceed fourteen feet (14') in width.

(C) Additional Restrictions and Requirements.

1. No movement on two (2)-lane highways when dirt shoulders are wet.

2. Bridge crossing may require stopping traffic on two (2)-lane highways where bridge width is less than thirty-two feet (32'). A distance of at least one thousand feet (1,000') between over*[dimension]***size** vehicles is required; escorts may act as flaggers.

(15) Super Heavy and Large Load Movement. Loads in excess of routine permit limits will be considered according to the following regulations when air, rail or water terminal points are not available:

(A) All permit applications with dimensions or weights exceeding the routine limits of the preceding over*[dimension]***size** and overweight permit rule (generally in excess of sixteen feet (16') wide, sixteen feet (16') high, one hundred fifty feet (150') long and/or over one hundred sixty thousand (160,000) pounds gross weight) shall be submitted *[in writing to the Missouri Department of Transportation, Motor Carrier Services Division, 1320 Creek Trail Drive, PO Box 893, Jefferson City, MO 65102.]* **by fax or online, along with** *[P]***p**roof of insurance**.** *[and v]***V**alid vehicle registration may *[also]* be required**, as well as minimum of four hundred twenty-five dollars ($425) in escrow (to cover the cost of a bridge analysis) before an application can be processed**. *[An a]***A**pplication**s** for this type of move is available on request or online. The applicant should allow at least two (2) weeks for a route evaluation. If any problems exist that may prevent the move from reaching its destination over the state highway system, the application will not be approved.

(C) If the loaded height exceeds seventeen feet *[five inches]* (17'*[5"]*), the applicant shall provide a written document from the appropriate utility company indicating approval to disturb aerial lines across the route.

(D) If the gross vehicle weight exceeds three hundred fifty thousand (350,000) pounds, an additional power unit must accompany the load and will be considered part of the vehicle configuration when conducting roadway and bridge structure analyses. For moves limited in length, this requirement may be waived at the discretion of Motor Carrier Services.

*[(D)]***(E)** If it is necessary to adjust, modify or remove state owned property such as signal and sign mast arms, flashers, signs, etc., a qualified contractor approved by the Missouri Department of Transportation shall be hired by the applicant to perform the necessary adjustment or removal and replacement.

*[(E)]***(F)** Restrictions and Requirements.

1. Travel on interstate and other divided highways allowed from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset except where restricted in tourist and urban areas (see subsections (9)(D) and (9)(E)) and as prohibited by holiday restrictions in subsection (1)(I)).

2. No movement from 6:30 a.m. to 9:00 a.m. and 3:30 p.m. to 6:00 p.m. on all other routes on the state highway system.

3. Travel is allowed on Saturday and Sunday for moves fourteen feet (14') wide and less *[if the load is not required to cross bridge structures at crawl speed and/or the load does not require Missouri State Highway Patrol escorts,]* except no movement is allowed on Saturday and Sunday in tourist areas (see subsection (9)(D)).

4. Unless otherwise stated on the permit, dates and times of travel will be determined by the Missouri State Highway Patrol if the load requires their escort services.

*[(F)]***(G)** Escort Requirements. If Missouri State Highway Patrol escorts are required for a continuous portion of the move but not the entire move, they are only required for that portion. If the patrol escort is required for an intermittent portion of the move, they will be required to escort the entire move. In addition to escort requirements as outlined in subsection (9)(I), the following requirements apply to super heavy and large load movements:

1. One (1) front and one (1) rear civilian escort is required for all superloads, except;

2. If a load is required to cross bridge structures at crawl speed in the Kansas City and St. Louis areas**,** then*[,]* one (1) front and two (2) rear civilian escorts are required for that portion of the move;

3. One (1) front and two (2) rear civilian escorts are required on all sections of dual lane highways traversed if load exceeds sixteen

feet (16') wide **and Missouri State Highway Patrol escorts are not present. If Missouri State Highway Patrol escorts are present, one (1) front and one (1) rear civilian escort is required**. In addition to the civilian escorts required above;

4. Missouri State Highway Patrol escorts are required when load exceeds:

A. Sixteen feet (16') wide on any highway other than interstate **or MO 370**;

B. Eighteen feet (18') wide on interstate **or MO 370**;

C. One hundred fifty feet (150') overall length*[.]* **on any highway;**

D. Seventeen feet (17') high on any highway;

E. Any time deemed necessary due to complexity of route or load.

The Missouri State Highway Patrol will conduct a Level I inspection prior to performing escort services.

*[(G)]***(H)** All future permitting authority for a carrier may be revoked if the Missouri State Highway Patrol is not reimbursed for superload escorting services.

*[(H)]***(I)** Generally the maximum weight allowed on any single axle *[will]* **shall** be twenty-two thousand four hundred (22,400) pounds for all moves classified under this section. All axles on the hauling unit must be load carrying with a maximum degree of equalization. The Missouri Department of Transportation shall determine whether or not the hauling unit, number of axles and axle arrangements are acceptable. In all cases the maximum axle loads, gross weight and overall dimensions allowed will be determined by the Missouri Department of Transportation according to section 304.200 of the *Missouri Revised Statutes* and/or the load carrying capacity of the roadway and structures on the proposed route.

*[(I)]***(J)** Before and after studies will be conducted of the highways and bridges traversed by the movement and any resulting damages shall be repaired at the expense of the permittee as directed by the Missouri Department of Transportation.

*[(J)]***(K)** For the purpose of moves under section (15), the applicant must have insurance in the amount of two (2) million dollars combined single limit automobile liability before a permit can be issued. The applicant shall provide evidence of such insurance satisfactory to the Motor Carrier Services Division before a permit will be issued; and

*[(K)]***(L)** Approved applications will require full payment to the "Director of Revenue*[, Credit State Road Fund,]*" by check or other suitable means of payment. The draft shall include payment of the permit fee and all evaluation fees. Roadway structures on the proposed route will be analyzed by the Missouri Department of Transportation to determine whether the move can be safely made. (See paragraph (4)(E)5. for fee schedule.)

(16) Noncommercial Building (House) Movement.

(A) Permits are available for the movement of noncommercial buildings that exceed the established over*[dimension]***size** and overweight permit limits listed in these regulations. These permits are available from district offices listed in subsection (4)(H). These rules and regulations are not intended for the movement of commercial buildings or repeated movements of similar buildings.

1. Movement of a building that will not allow one-way traffic to pass the load will be limited to no more than one (1) mile in length on the state highway system if the traffic volume on the proposed route exceeds five hundred (500) vehicles per day. If the traffic volume is less than five hundred (500) vehicles per day, movement will be considered up to a distance of three (3) miles on the state highway system.

2. Movement of a building greater than sixteen feet (16') in overall width that will allow one-way traffic to pass the load will be limited to no more than two (2) miles on the state highway system if the traffic volume on the proposed route exceeds two thousand (2,000) vehicles per day. If the traffic volume is less than two thousand (2,000) vehicles per day, movement will be considered up to a distance of ten (10) miles on the state highway system.

3. The traveled distances listed in the above two (2) paragraphs reflect the total miles of the move on the state highway system rather than miles allowed to move per attempt. Short segments of the state highway system may be used in a move provided the total mileage allowed on the state highway system is not exceeded. The district engineer or his/her representative may consider a longer travel distance if the entire move can be made during periods of lower traffic volumes listed in the above two (2) paragraphs of this section. Additional restrictions regarding travel during adverse weather conditions are at the discretion of the Missouri Department of Transportation district engineer or his/her representative.

(D) For the purpose of moves under section (16), the applicant must have a current house mover license, applicable operating authority and must have insurance in the amount of two (2) million dollars combined single limit automobile liability before a permit can be issued. The applicant shall provide evidence of such license and insurance satisfactory to the Missouri Department of Transportation *[and the insurance shall include the following under Description of Operation: "STRUCTURAL MOVING OPERATIONS OF THE NAMED INSURED INCLUDED IN THIS COVERAGE"]***.**

*AUTHORITY: section 304.200, RSMo Supp. [2004] **2007**. This rule was previously filed as 7 CSR 10-2.010. Original rule filed July 12, 2005, effective Feb. 28, 2006. Emergency amendment filed July 7, 2008, effective Sept. 2, 2008, expires Feb. 28, 2009. Amended: Filed July 7, 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 private entities, including small business, one hundred fourteen thousand five hundred twenty-four dollars ($114,524) annually.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 7 - Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter: 25 – Motor Carrier Operations

Rule Number and Name:	.020 - Overdimension and Overweight Permits
Type of Rulemaking:	Amended

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 business entities which would be affected:	Estimated Cost in the Aggregate.
13 companies issued a total of 31 permits	Motor carriers moving superloads greater than 17' high requiring Missouri State Highway Patrol escort services	$ 51,894
4 companies issued a total of 149 permits	Motor carriers purchasing 30-days blankets.	$ 40,230
Companies issued a total of 16 permits	Motor carriers purchasing superload permits in excess of 350,000 lbs.	$ 22,400

III. WORKSHEET

Superloads Requiring Missouri State Highway Patrol Escorts

Average cost of superload escort services with two patrol cars	$1674
Number of permits issued in 2007 greater than or equal to 17' high	x 31
Total	**$51,894**

Superloads In Excess of 350,000 Lbs. Requiring Pusher Truck

Average cost of pusher truck ($175/hr. x 8 hrs.)	$ 1,600
Number of permits issued in excess of 350,000 lbs. with no pusher truck	16
Total	**$22,400**

Increase in 30-day blanket Permit Fee		
149 permits issued at $300 each	(149 x 300)	$44,700
149 permits issued at $30 each in 2007	(149 x 30)	- 4,470
	Total	**$40,230**

Total Estimated Costs for FY_09_ and Subsequent Years **$114,524**

IV. ASSUMPTIONS

1. The average weight of a 30-day blanket permit is 152,000 lbs. The cost of a single-trip permit for 152,000 lbs. is $175 each. The 30-day blanket allows multiple moves per day for 30 days; therefore, raising the cost to $300 is still more economical than the alternative of purchasing a single-trip.
2. Because the 30-day blanket permit, 17' high superload and number of superloads in excess of 350,000 lbs. are very specialized permits, an increase or decrease in the number that will be issued in future years is unknown. Therefore, actual number of permits issued for calendar year 2007 and partial year 2008 were used in the calculations.
3. Any other costs not identified in this fiscal note are unforeseeable.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

PROPOSED RULE

10 CSR 10-2.385 Control of Heavy Duty Diesel Vehicle Idling Emissions. If the commission adopts this rule action, it will be the department's intention to submit this new rule to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/ruleindex.htm.

PURPOSE: The purpose of this rulemaking is to implement restrictions on the idling of heavy duty diesel vehicles in the Kansas City Ozone Maintenance Area. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the federally approved 2007 Kansas City Maintenance Plan for the Control of Ozone.

(1) Applicability.

(A) This regulation applies throughout Clay, Platte, and Jackson Counties.

(B) This regulation applies to owners or operators of commercial, public, and institutional heavy duty diesel vehicles that are designed to operate on public streets and highways, whether or not the vehicles are operated on public roadways.

(C) This regulation applies to owners or operators of locations where commercial, public, and institutional heavy duty diesel vehicles load or unload (hereinafter referred to as "load/unload locations").

(D) Passenger vehicles as defined in subsection (2)(H) of this rule are exempt from this rule.

(2) Definitions.

(A) Auxiliary Power Unit (APU)—An integrated system that—

1. Provides heat, air conditioning, engine warming, or electricity to components on a heavy duty vehicle; and

2. Is certified by the Administrator under part 89 of title 40, *Code of Federal Regulations* (or any successor regulation), as meeting applicable emissions standards.

(B) Commercial Vehicle—Any motor vehicle, other than a passenger vehicle, and any trailer, semitrailer, or pole trailer drawn by such motor vehicle, that is designed, used, and maintained for the transportation of persons or property for hire, compensation, profit, or in the furtherance of a commercial enterprise.

(C) Gross Vehicle Weight Rating (GVWR)—The value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

(D) Heavy Duty Diesel Vehicle—A vehicle that—

1. Has a gross vehicle weight rating greater than eight thousand five hundred (8,500) pounds;

2. Is powered by a diesel engine; and

3. Is designed primarily for transporting persons or property on a public street or highway.

(E) Idling—The operation of an engine where the engine is not engaged in gear.

(F) Institutional Vehicles—Any motor vehicle, other than a passenger vehicle, and any trailer, semitrailer, or pole trailer drawn by such a motor vehicle, that is designed, used, and maintained for the transportation of persons or property for an establishment, foundation, society, or the like, devoted to the promotion of a particular cause or program especially one of a public, educational, or charitable character.

(G) Load/Unload Locations—Distribution centers, warehouses, retail stores, railroad facilities, ports, and other similar facilities where truck drivers may idle their engines while waiting to load or unload.

(H) Passenger Vehicle—Every motor vehicle, except motorcycles, motor-driven cycles, and ambulances, designed for carrying ten (10) passengers or less and used for the transportation of persons.

(I) Public Vehicles—Any motor vehicle, other than a passenger vehicle, and any trailer, semitrailer, or pole trailer drawn by such a motor vehicle, which is designed, used, and maintained for the transportation of persons or property at the public expense and under public control.

(J) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Requirements for load/unload locations.

1. Freight load/unload locations. No freight load/unload location owner or operator shall cause or allow vehicles covered by this rule to idle for a period greater than thirty (30) minutes in any sixty (60)-minute period while waiting to load or unload at a location under their control.

2. Passenger load/unload locations. No passenger load/unload location owner or operator shall cause or allow vehicles covered by this rule to idle for a period greater than five (5) minutes in any sixty (60)-minute period except as noted in subsection (3)(C) of this rule.

(B) Requirement for heavy duty diesel vehicles. No owner or operator of a vehicle shall cause or permit vehicles covered by this rule to idle for more than five (5) minutes in any sixty (60)-minute period except as noted in subsection (3)(C) of this rule, and except while waiting to load or unload as provided in subsection (3)(A) of this rule.

(C) Exempt idling activities. The following activities are exempt from 10 CSR 10-2.385:

1. A vehicle idling while forced to remain motionless because of road traffic, an official traffic control device or signal, or at the direction of a law enforcement official;

2. A vehicle idling when operating defrosters, heaters, air conditioners, safety lights, or other equipment solely to prevent a safety or health emergency;

3. A police, fire, ambulance, public safety, utility service vehicle, military, other emergency or law enforcement vehicle, or any vehicle being used in an emergency capacity, idling while in an emergency or training mode, and not for the convenience of the vehicle operator;

4. A primary propulsion engine idling for maintenance, servicing, repairing, or diagnostic purposes if idling is necessary for such activity;

5. A vehicle idling as part of a state or federal inspection to verify that all equipment is in good working order, provided idling is required as part of the inspection;

6. A primary propulsion engine idling when necessary to power work related mechanical or electrical operations other than propulsion (e.g., mixing, operating hydraulic lifts, processing cargo, or straight truck refrigeration). This exemption does not apply when idling for cabin comfort or to operate non-essential on-board equipment;

7. An armored vehicle idling when a person remains inside the vehicle to guard the contents, or while the vehicle is being loaded or unloaded;

8. A bus idling for no greater than fifteen (15) minutes in any sixty (60)-minute period to maintain passenger comfort while non-driver passengers are onboard;

9. An occupied vehicle with a sleeper berth compartment idling for purposes of air conditioning or heating during government mandated rest periods;

10. A vehicle idling due to mechanical difficulties over which the driver has no control;

11. Heavy duty diesel vehicles used exclusively for agricultural operations and only incidentally operated or moved upon public roads; and

12. Operating an auxiliary power unit as an alternative to idling the main engine.

(4) Reporting and Recordkeeping. *(Not Applicable)*

(5) Test Methods. *(Not Applicable)*

AUTHORITY: section 643.050, RSMo 2000. Original rule filed July 11, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rule will begin at 9:00 a.m., September 25, 2008. The public hearing will be held at the Hotel Phillips, The Crystal Room, 106 W. 12th Street, Kansas City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., October 2, 2008. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

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

PROPOSED RULE

10 CSR 10-5.385 Control of Heavy Duty Diesel Vehicle Idling Emissions. If the commission adopts this rule action, it will be the department's intention to submit this new rule to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/ruleindex.htm.

PURPOSE: The purpose of this rulemaking is to implement restrictions on the idling of heavy duty diesel vehicles in the St. Louis Ozone Nonattainment Area. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the federally approved 2007 Revision of the State Implementation Plan for the St. Louis Eight (8)-Hour Ozone Nonattainment Area.

(1) Applicability.

(A) This regulation applies throughout St. Louis City and Franklin, Jefferson, St. Charles, and St. Louis Counties.

(B) This regulation applies to owners or operators of commercial, public, and institutional heavy duty diesel vehicles that are designed to operate on public streets and highways, whether or not the vehicles are operated on public roadways.

(C) This regulation applies to owners or operators of locations where commercial, public and institutional heavy duty diesel vehicles load or unload (hereinafter referred to as "load/unload locations").

(D) Passenger vehicles as defined in subsection (2)(H) of this rule are exempt from this rule.

(2) Definitions.

(A) Auxiliary Power Unit (APU)—An integrated system that—

1. Provides heat, air conditioning, engine warming, or electricity to components on a heavy duty vehicle; and

2. Is certified by the administrator under part 89 of title 40, *Code of Federal Regulations* (or any successor regulation), as meeting applicable emissions standards.

(B) Commercial Vehicle—Any motor vehicle, other than a passenger vehicle, and any trailer, semitrailer, or pole trailer drawn by such motor vehicle, that is designed, used and maintained for the transportation of persons or property for hire, compensation, profit or in the furtherance of a commercial enterprise.

(C) Gross Vehicle Weight Rating (GVWR)—The value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

(D) Heavy Duty Diesel Vehicle—A vehicle that—

1. Has a gross vehicle weight rating greater than eight thousand five hundred (8,500) pounds;

2. Is powered by a diesel engine; and

3. Is designed primarily for transporting persons or property on a public street or highway.

(E) Idling—The operation of an engine where the engine is not engaged in gear.

(F) Institutional Vehicles—Any motor vehicle, other than a passenger vehicle, and any trailer, semitrailer, or pole trailer drawn by such a motor vehicle, that is designed, used, and maintained for the transportation of persons or property for an establishment, foundation, society, or the like, devoted to the promotion of a particular cause or program especially one of a public, educational, or charitable character.

(G) Load/Unload Locations—Distribution centers, warehouses, retail stores, railroad facilities, ports, and other similar facilities where truck drivers may idle their engines while waiting to load or unload.

(H) Passenger Vehicle—Every motor vehicle, except motorcycles, motor-driven cycles, and ambulances, designed for carrying ten (10) passengers or less and used for the transportation of persons.

(I) Public Vehicles—Any motor vehicle, other than a passenger vehicle, and any trailer, semitrailer, or pole trailer drawn by such a motor vehicle, which is designed, used, and maintained for the transportation of persons or property at the public expense and under public control.

(J) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Requirements for load/unload locations.

1. Freight load/unload locations. No freight load/unload location owner or operator shall cause or allow vehicles covered by this rule to idle for a period greater than thirty (30) minutes in any sixty (60)-minute period while waiting to load or unload at a location under their control.

2. Passenger load/unload locations. No passenger load/unload location owner or operator shall cause or allow vehicles covered by this rule to idle for a period greater than five (5) minutes in any sixty (60)-minute period.

(B) Requirement for heavy duty diesel vehicles. No owner or operator of a vehicle shall cause or permit vehicles covered by this rule to idle for more than five (5) minutes in any sixty (60)-minute period except as noted in subsection (3)(C) of this rule, and except while waiting to load or unload as provided in subsection (3)(A) of this rule.

(C) Exempt idling activities. The following activities are exempt from 10 CSR 10-5.385:

1. A vehicle idling while forced to remain motionless because of road traffic, an official traffic control device or signal, or at the direction of a law enforcement official;

2. A vehicle idling when operating defrosters, heaters, air conditioners, safety lights, or other equipment solely to prevent a safety or health emergency;

3. A police, fire, ambulance, public safety, utility service vehicle, military, other emergency or law enforcement vehicle, or any vehicle being used in an emergency capacity, idling while in an emergency or training mode, and not for the convenience of the vehicle operator;

4. The primary propulsion engine idling for maintenance, servicing, repairing, or diagnostic purposes if idling is necessary for such activity;

5. A vehicle idling as part of a state or federal inspection to verify that all equipment is in good working order, provided idling is required as part of the inspection;

6. A primary propulsion engine idling when necessary to power work related mechanical or electrical operations other than propulsion (e.g., mixing, operating hydraulic lifts, processing cargo, or straight truck refrigeration). This exemption does not apply when idling for cabin comfort or to operate non-essential on-board equipment;

7. An armored vehicle idling when a person remains inside the vehicle to guard the contents, or while the vehicle is being loaded or unloaded;

8. A bus idling for no greater than fifteen (15) minutes in any sixty (60)-minute period to maintain passenger comfort while non-driver passengers are onboard;

9. An occupied vehicle with a sleeper berth compartment idling for purposes of air conditioning or heating during government mandated rest periods;

10. A vehicle idling due to mechanical difficulties over which the driver has no control;

11. Heavy duty diesel vehicles used exclusively for agricultural operations and only incidentally operated or moved upon public roads; and

12. Operating an auxiliary power unit as an alternative to idling the main engine.

(4) Reporting and Recordkeeping. *(Not Applicable)*

(5) Test Methods. *(Not Applicable)*

AUTHORITY: section 643.050, RSMo 2000. Original rule filed July 11, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rule will begin at 9:00 a.m., September 25, 2008. The public hearing will be held at the Hotel Phillips, The Crystal Room, 106 W. 12th Street, Kansas City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., October 2, 2008. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2197—Board of Therapeutic Massage
Chapter 2—Massage Therapist Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2197-2.010 Application for Licensure. The board is proposing to amend subsections (1)(C), (1)(D), and (2)(D).

PURPOSE: This amendment adds pathology as an area of instruction that does not require a person to be licensed as a massage therapist and clarifies the examinations that are acceptable for licensure.

(1) A person who has completed massage therapy studies consisting of at least five hundred (500) clock hours of supervised instruction in a Coordinating Board of Higher Education (CBHE) certified school, Missouri Department of Elementary and Secondary Education (DESE) approved vocational program or school, or school, college, university, or other institution of higher learning in the United States accredited by a regional accrediting commission recognized by the United States Department of Education or an equivalent approving body for out-of-state applicants, shall be at least eighteen (18) years of age and shall submit or cause to be submitted:

(C) An official final transcript showing successful completion of the program to be submitted directly to the board office from the massage therapy program which includes:

1. The applicant's name;

2. Date of enrollment;

3. Date of completion; and

4. Documentation that the massage therapy program consisted of at least five hundred (500) clock hours of supervised instruction which consisted of:

A. At least three hundred (300) clock hours dedicated to massage theory and practice techniques. An instructor for massage theory and practice techniques shall document at least two (2) years of massage therapy practice and either be licensed as a massage therapist in this state or be licensure eligible, based upon board review of the instructor's credentials. An instructor of kinesiology **or pathology** within the massage theory and practice technique curriculum shall submit verification of education and/or experience in kinesiology **or pathology** instruction and licensure as a massage therapist or licensure eligibility shall not be required;

B. One hundred (100) clock hours dedicated to the study of anatomy and physiology provided by one of the following:

(I) An instructor with an associate, bachelor, or advanced degree in a science related field that includes a course of study in anatomy and physiology. Such degrees include**,** but are not limited to**,** physical therapy, chiropractic, osteopathy, medicine, nursing, chemistry, or biology and shall be from a college, university, or other institution of higher learning in the United States accredited by a regional accrediting commission recognized by the U.S. Department of Education;

(II) An instructor with fifteen (15) semester hours or twenty-five (25) quarter hours in science or science related courses from a college, university, or other institution of higher learning in the

United States accredited by a regional accrediting commission recognized by the U.S. Department of Education. All course work must have a passing grade and at least eight (8) semester hours or fifteen (15) quarter hours of the course of study shall be in anatomy and physiology. For the purpose of this regulation a semester hour is equivalent to fifteen (15) clock hours and a quarter hour is equivalent to ten (10) clock hours;

C. Fifty (50) clock hours dedicated to business practice, professional ethics, hygiene and massage law in the state of Missouri provided by an instructor who demonstrates documented experience/education in a related field; and

D. Fifty (50) clock hours dedicated to ancillary therapies provided by an instructor(s) who demonstrates documented experience/education in a related field. The fifty (50) clock hours shall include but not be limited to cardiopulmonary resuscitation (CPR) and first aid which shall be provided by an instructor who holds the respective instructor certification; and

(D) Evidence of passing *[an examination from]* one of the following:

1. *[The National Certification Board of Therapeutic Massage and Bodywork (NCBTMB);]* **National Certification Examination for Therapeutic Massage and Bodywork (NCETBM) as administered by the National Certification Board for Therapeutic Massage and Bodywork or its successor organization;**

2. National Certification Examination for Therapeutic Massage (NCETM) as administered by the National Certification Board for Therapeutic Massage and Bodywork or its successor organization;

*[2.]***3.** *[The]* **Asian Bodywork Therapy (ABT) Examination as administered by the** National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM);

*[3.]***4.** The American Medical Massage Association National Board Certification Examination (AMMA NBCE) administered as of 2006; *[or]*

5. Massage and Bodywork Licensing Examination (MBLEx) as administered by the Federation of State Massage Therapy Boards or its successor organization; or

*[4.]***6.** An examination deemed appropriate by the board;

(2) A person who has completed five hundred (500) clock hours in an apprenticeship with a certified mentor and has successfully passed an examination approved by the board shall be at least eighteen (18) years of age and shall submit or cause to be submitted:

(D) Evidence of passing *[a statistically valid examination from]* one of the following:

[1. NCBTMB;

2. NCCAOM;

3. AMMA NBCE administered as of 2006; or

4. An examination deemed appropriate by the board; and]

1. National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) as administered by the National Certification Board for Therapeutic Massage and Bodywork or its successor organization;

2. National Certification Examination for Therapeutic Massage (NCETM) as administered by the National Certification Board for Therapeutic Massage and Bodywork or its successor organization;

3. Asian Bodywork Therapy Examination (ABT) as administered by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) or its successor organization;

4. The American Medical Massage Association National Board Certification Examination (AMMA NBCE) administered as of 2006; or

5. Massage and Bodywork Licensing Examination (MBLEX) as administered by the Federation of State Massage Therapy Boards or its successor organization;

AUTHORITY: sections 324.240 and 324.267, RSMo 2000 and sections 324.243, 324.245, 324.265, and 324.270, RSMo Supp. 2007. This rule originally filed as 4 CSR 197-2.010. Original rule filed Feb. 25, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 26, 2003, effective June 30, 2004. Moved to 20 CSR 2197-2.010, effective Aug. 28, 2007. Amended: Filed Aug. 21, 2007, effective March 30, 2008. Amended: Filed July 9, 2008.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately four thousand nine hundred forty-four dollars and forty-nine cents ($4,944.49) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately four thousand eight hundred eight-six dollars ($4,886) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Therapeutic Massage, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing comments to (573) 751-0735, or by emailing comments to massther@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 2197 - Board of Therapeutic Massage
Chapter 2 - Massage Therapist Licensure Requirements
Proposed Rule - 20 CSR 2197-2.010 Application for Licensure
Prepared May 23, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri Board for Therapeutic Massage	$4,944.49
Total Annual Cost of Compliance for the Life of the Rule	**$4,944.49**

III. WORKSHEET

Personal Service Dollars

The Executive Director will review the pathology instructor's credentials and their verification of education in that area.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL APPS PER YEAR	TOTAL COST
Executive Director	$64,143	$95,502.51	$45.91	$0.77	5 minutes	$3.83	5	$19.13

The Licensure Technician II will review applcations for completion and prepare the listing for candidates eligible to take the MBLEx Exam. The Executive Director will approve applications for the MBLEx Exam.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL APPS PER YEAR	TOTAL COST
Licensure Tech II	$25,044	$37,288.01	$17.93	$0.30	24 Hours Per Year	$430.25	5	$2,151.23
Executive Director	$64,143	$95,502.51	$45.91	$0.77	12 Hours Per Year	$550.98	5	$2,754.88
					Total Annual Personal Services Cost for Implementation of this Amendment			**$4,925.24**

Expense and Equipment Dollars

Expense & Materials	Cost Per Item	Number of Items	Total Cost
Letterhead & Envelope	$0.35	25	$8.75
Postage	$0.42	25	$10.50
		Total Annual Expense and Equipment Costs for Implementation of this Amendment	**$19.25**

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the office, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2197 - Board of Therapeutic Massage
Chapter 2 - Massage Therapist Licensure Requirements
Proposed Rule - 20 CSR 2197-2.010 Application for Licensure
Prepared May 23, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the rule by affected entities:
25	MBLEx Applications $195.00	$4,875.00
25	Postage $0.42	$10.50
	Estimated Biennal Cost of Compliance with the Amendment for the Life of the Rule	**$4,885.50**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. It is anticipated that the total cost will recur or the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2205—Missouri Board of Occupational Therapy
Chapter 1—General Rules

PROPOSED AMENDMENT

20 CSR 2205-1.050 Fees. The board is proposing to amend section (1).

PURPOSE: The board is statutorily obligated to enforce and administer the provisions of Chapter 324, RSMo. Pursuant to section 324.074., RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 324, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.050 to 324.089, RSMo. Therefore, the board is proposing to reduce their renewal fees.

(1) The Division of Professional Registration establishes the following fees which are nonrefundable:

(A) Application for Licensure as an Occupational Therapist Fee	$*[90]***55**.00
(B) Application for Licensure as an Occupational Therapy Assistant Fee	$*[60]***30**.00
(C) Application for Limited Permit Fee	$*[30]***15.**00
(D) Biennial Occupational Therapist License Renewal Fee	$*[90]***55**.00
(E) Biennial Occupational Therapy Assistant License Renewal Fee	$*[60]***30**.00

AUTHORITY: sections 324.065, 324.068 and 324.074, RSMo 2000. This rule originally filed as 4 CSR 205-1.050. Original rule filed Aug. 4, 1998, effective Dec. 30, 1998. Amended: Filed June 28, 2002, effective Dec. 30, 2002. Moved to 20 CSR 2205-1.050, effective Aug. 28, 2006. Amended: Filed July 9, 2008.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately nine thousand four hundred seventy-five dollars ($9,475) annually and approximately ninety-six thousand three hundred thirty dollars ($96,330) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately nine thousand four hundred seventy-five ($9,475) annually and approximately ninety-six thousand three hundred thirty dollars ($96,330) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Occupational Therapy, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-751-0877, or via email at ot@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 2205 - Missouri Board of Occupational Therapy
Chapter 1 - General Rules
Proposed Amendment - 20 CSR 2205-1.050 Fees
Prepared June 9, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
Board of Occupational Therapy	Estimated Annual Loss of Revenue	$9,475.00
	Estimated Biennial Loss of Revenue	$96,330.00

III. WORKSHEET

1. The division is statutorily obligated to enforce and administer the provisions of sections 324.050-324.089, RSMo. Pursuant to Section 324.074, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 324.050-324.089, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.050-324.089, RSMo. The board estimates the projections calcuated in the Private Entity Fiscal Notes will be total loss of revenue for the board.

IV. ASSUMPTION

1. The figures reported above are based on FY08 actuals.
2. It is anticipated that the total loss 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 FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions, and Professional Registration
Division 2205 - Missouri Board of Occupational Therapy
Chapter 1 - General Rules
Proposed Amendment - 20 CSR 2205-1.050 Fees
Prepared June 9, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Annual

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 annual savings for compliance with the amendment by affected entities:
170	Occupational Therapist (Application Fee - $35 Decrease)	$5,950
70	Occupational Therapy Assistant (Application Fee - $30 Decrease)	$2,100
95	Limited Permit (Application - $15 Decrease)	$1,425
	Estimated Annual Cost Savings for the Life of the Rule	**$9,475**

Biennial

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 savings for compliance with the amendment by affected entities:
2190	Occupational Therapist License (Biennial Renewal Fee - $35	$76,650
656	Occupation Therapy Assistant (Biennial Renewal Fee - $30	$19,680
	Estimated Biennal Cost Savings for the Life of the Rule	**$96,330**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based on FY08 actuals.
2. It is anticipated that the total saving will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The division is statutorily obligated to enforce and administer the provisions of sections 324.050-324.089, RSMo. Pursuant to Section 324.074, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 324.050-324.089, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.050-324.089, RSMo.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2205—Missouri Board of Occupational Therapy
Chapter 5—Continuing Competency Requirements

PROPOSED AMENDMENT

20 CSR 2205-5.010 Continuing Competency Requirements. The board is proposing to add section (9).

PURPOSE: This amendment sets forth the requirements for excusing or extending the time frame for completion of the required continuing competency credits.

(9) Upon application and for good cause shown, the board may excuse or extend the time for completion of some or all of the required continuing competency credits.

(A) An application shall be in writing and delivered to the board's office.

1. The board may require additional information or an interview with the board or its designee. Failure to timely respond or appear shall be grounds to deny the application.

2. If the application requests excuse of the credits, a statement of how competency is being maintained shall be part of the application.

3. If the application requests an extension of time, it shall include proposed activities.

(B) If an extension of time is granted, the continuing competency credits earned during the extension shall not be counted in the subsequent renewal period.

AUTHORITY: sections 324.065 and 324.080, RSMo 2000 and ***section*** *324.086, RSMo Supp.* ~~*[2005]*~~ ***2007****. This rule originally filed as 4 CSR 205-5.010. Original rule filed Aug. 4, 1998, effective Dec. 30, 1998. Amended: Filed Nov. 13, 2002, effective April 30, 2003. Amended: Filed Dec. 1, 2005, effective June 30, 2006. Moved to 20 CSR 2205-5.010, effective Aug. 28, 2006. Amended: Filed July 9, 2008.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately four dollars and ninety-five cents ($4.95) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately two dollars and ten cents ($2.10) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Occupational Therapy, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-3489, or via email at ot@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 2205 - Missouri Board of Occupational Therapy
Chapter 5 - Continuing Competency Requirements
Proposed Amendment - 20 CSR 2205-5.010 Continuing Competency Requirements

Prepared May 22, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Biennial Cost of Compliance	
Board of Occupational Therapy	$4.95	
	Total Biennial Cost of Compliance for the Life of the Rule	$4.95

III. WORKSHEET

The Licensure Technician I will be responsible for preparing the information received from the applicants for the board's review. The board will review these applications during regularly scheduled meetings and therefore the board will not incur any extra per diem costs.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	NUMBER OF APPLICATIONS	TOTAL COST
License Tech I	$27,696	$41,236.57	$19.83	$0.33	3 minutes	$0.99	5	$4.95
					Total Biennial Cost of Compliance for Implementation of this Amendment			$4.95

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute.
2. 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.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2205 - Missouri Board of Occupational Therapy
Chapter 5 - Continuing Competency Requirements
Proposed Amendment - 20 CSR 2205-5.010 Continuing Competency Requirements
Prepared June 5, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

First Year of Implementation of Rule

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
5	Licensees Requesting Continuing Competency Credit Extensions (Postage @ $0.42)	$2.10
	Estimated Annual Cost of Compliance for the Life of the Rule	**$2.10**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 1—Organization and Description of Board

PROPOSED AMENDMENT

20 CSR 2230-1.030 Definitions. The board is proposing to amend the original purpose statement.

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 230 are being amended throughout the rule.

*PURPOSE: This rule defines terms used in [4 CSR 230] **20 CSR 2230**.*

*AUTHORITY: sections 330.010, 330.040, 330.050, **and** 330.070, **RSMo Supp. 2007** and **section** 330.140, RSMo 2000. This rule originally filed as 4 CSR 230-1.030. Original rule filed Sept. 1, 2004, effective March 30, 2005. Moved to 20 CSR 2230-1.030, effective Aug. 28, 2006. Amended: Filed July 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 rule with the Board of Podiatric Medicine, PO Box 432, Jefferson City, MO 65102, by facsimile at 573-751-1155 or via email at podiatry@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 2235—State Committee of Psychologists
Chapter 1—General Rules

PROPOSED AMENDMENT

20 CSR 2235-1.025 Application for Provisional Licensure. The board is proposing to amend sections (3) and (9).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 235 are being amended throughout the rule.

(3) The committee may issue a provisional license to practice psychology to any applicant who meets all the following requirements:

(A) A completed application accompanied by the appropriate fee, as defined in *[4 CSR 235-1.020]* **20 CSR 2235-1.020**;

(9) Any person acting under or providing psychological services pursuant to a provisional license shall at all times comply with provisions of *[4 CSR 235-2.040 or 4 CSR 235-2.050]* **20 CSR 2235-2.040 or 20 CSR 2235-2.050** including**,** without limitation**,** the representation provisions set forth in subsection (1)(I) thereof.

*AUTHORITY: sections 337.020 and 337.050.9, RSMo [Supp. 1998] **2000**. This rule originally filed as 4 CSR 235-1.025. Original rule filed July 26, 1999, effective Feb. 29, 2000. Moved to 20 CSR 2235-1.025, effective Aug. 28, 2006. Amended: Filed July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2235—State Committee of Psychologists
Chapter 1—General Rules

PROPOSED AMENDMENT

20 CSR 2235-1.026 Application for Temporary Licensure. The board is proposing to amend section (3).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 235 are being amended throughout the rule.

(3) A temporary license will be issued to any applicant licensed as a psychologist in another jurisdiction, who is applying for licensure in this state either by endorsement of score pursuant to *[4 CSR 235-2.065]* **20 CSR 2235-2.065** and/or by reciprocity pursuant to section 337.029, RSMo and *[4 CSR 235-2.070]* **20 CSR 2235-2.070** and who meets all the following requirements:

(A) A completed application accompanied by the appropriate fee, as defined in *[4 CSR 235-1.020]* **20 CSR 2235-1.020**; and

*AUTHORITY: sections 337.020 and 337.050.9, RSMo [Supp. 1998] **2000**. This rule originally filed as 4 CSR 235-1.026. Original rule filed July 26, 1999, effective Feb. 29, 2000. Moved to 20 CSR 2235-1.026, effective Aug. 28, 2006. Amended: Filed July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2235—State Committee of Psychologists
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2235-2.005 Educational Requirements, Section 337.025, RSMo. The board is proposing to amend sections (1) and (2).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 235 are being amended throughout the rule.

(1) A person applying for licensure as a psychologist pursuant to section 337.025, RSMo, and who does not engage in the delivery of psychological health services as defined in *[4 CSR 235-1.015]* **20 CSR 2235-1.015**, shall be governed by the following: possession of a doctoral degree in psychology as defined in section 337.025.3, RSMo.

(2) A person applying for licensure as a psychologist pursuant to section 337.025, RSMo, and who will engage in the delivery of psychological health services as defined in *[4 CSR 235-1.015]* **20 CSR 2235-1.015**, shall be governed by the following:

*AUTHORITY: sections 337.025, 337.033, and 337.050.9, RSMo [Supp. 1999] **2000**. This rule originally filed as 4 CSR 235-2.005. Original rule filed Feb. 4, 1992, effective Dec. 3, 1992. Amended: Filed June 1, 2000, effective Nov. 30, 2000. Moved to 20 CSR 2235-2.005, effective Aug. 28, 2006. Amended: Filed July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2235—State Committee of Psychologists
Chapter 2—Licensure Requirements

PROPOSED RESCISSION

20 CSR 2235-2.030 Post Master's Degree Supervised Professional Experience, Section 337.021, RSMo. This rule defined the two (2) years of satisfactory professional experience required of master's level applicants in section 337.020.2, RSMo.

PURPOSE: This rule is being rescinded as this requirement is no longer valid.

AUTHORITY: sections 334.125, RSMo 1986, 337.045.5 and 337.050.5, RSMo Supp. 1989. This rule originally filed as 4 CSR 235-2.030. Original rule filed Aug. 11, 1983, effective Dec. 11, 1983. Amended: Filed May 4, 1987, effective Aug. 13, 1987. Amended: Filed Oct. 4, 1988, effective Dec. 29, 1988. Amended: Filed Feb. 4, 1992, effective Dec. 3, 1992. Moved to 20 CSR 2235-2.030, effective Aug. 28, 2006. Amended: Filed July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2235—State Committee of Psychologists
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2235-2.050 Supervised Professional Experience, Section 337.025, RSMo, for the Delivery of Nonhealth Psychological Services. The board is proposing to amend section (1).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 235 are being amended throughout the rule.

(1) Postdoctoral experience for those applicants who have not completed a program in one or more of the American Psychological Association designated health service provider delivery areas, as defined in *[4 CSR 235-1.015(10)]* **20 CSR 2235-1.015(10)**, and/or for those who do not intend to engage in the delivery of psychological health services shall be governed by the following:

(A) Completion of Educational Requirements. All supervised professional experience must be acquired subsequent to the completion of all educational requirements as defined in section 337.027, RSMo. For the purposes of this rule, an applicant shall be deemed to have met the educational requirements when all degree and core course requirements, as defined in *[4 CSR 235-2.005]* **20 CSR 2235-2.005**, have been completed. Degree requirements have been met when indicated by conferral of the formal degree or at the time when all degree requirements established by the recognized educational institution for the degree have been met with the sole exception that the degree has not been formally conferred and the institution so certifies in writing to the committee;

(I) Representation.

1. Throughout the period of postdoctoral supervised professional experience, the supervisee must represent him/herself to consumers of psychological services consistent with *[4 CSR 235-1.015]* **20 CSR 2235-1.015**.

2. Any individual, whether such individual be provisionally licensed or be unlicensed, who is working under the supervision of a licensed psychologist shall not be listed in telephone listings as providing psychological services.

3. Any individual, whether such individual be provisionally licensed or unlicensed, who is working under the supervision of a licensed psychologist shall list the primary supervising psychologist's name and license number on all professional correspondence (for example, testing reports and progress reports) and advertisements or notices (for example, brochures) of his/her professional services.

AUTHORITY: sections 337.025 and 337.050.9, RSMo [Supp. 1998] 2000. This rule originally filed as 4 CSR 235-2.050. Original rule filed Feb. 4, 1992, effective Dec. 3, 1992. Amended: Filed July 26, 1999, effective Feb. 29, 2000. Moved to 20 CSR 2235-2.050, effective Aug. 28, 2006. Amended: Filed July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2235—State Committee of Psychologists
Chapter 3—Health Service Provider Certification

PROPOSED AMENDMENT

20 CSR 2235-3.020 Health Service Provider Certification. The board is proposing to amend sections (1) and (3) through (5).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 235 are being amended throughout the rule.

(1) Eligibility Requirements.

(C) Any person lawfully licensed as a psychologist in this state after August 28, 1989, based upon a doctoral degree, who meets the educational requirements, as defined in *[4 CSR 235-2.005]* **20 CSR 2235-2.005**, and post-degree supervision requirements as defined in *[4 CSR 235-2.040]* **20 CSR 2235-2.040**.

(3) Delivery of Psychological Health Services.

(A) Pursuant to section 337.033.3, RSMo, the term relevant professional education and training for health service provider certification in the delivery of psychological health services for persons applying for licensure under section 337.025, RSMo is defined as follows:

1. Education—Possession of a doctoral degree with an emphasis, or concentration, in one of the health service provider delivery areas as defined in *[4 CSR 235-1.015(10)]* **20 CSR 2235-1.015(10)**;

2. Training—Supervised practicum or internship in the delivery of psychological health services as part of the graduate degree program; and

3. Experience—Supervised post-degree professional experience as defined in *[4 CSR 235-2.040]* **20 CSR 2235-2.040**.

(C) A psychologist may provide psychological health services without possessing a health service provider certificate; provided, s/he meets the following criteria:

1. Possession of a current and valid psychologist license in this state based upon the following relevant professional education, training, and experience pursuant to sections 337.021 and 337.033.1, RSMo:

A. Education and training—section 337.021, RSMo.

(I) For persons licensed prior to August 28, 1989, or who have been approved to sit for the examination prior to August 28, 1989, who subsequently obtain licensure pursuant to section 337.021, RSMo, possession of a master's or doctoral degree from a program whose educational emphasis and training was in one of the designated health service provider delivery areas as defined in *[4 CSR 235-1.015(10)]* **20 CSR 2235-1.015(10)**, guidance and counseling, counselor education, mental health services, or such other program as the committee may from time-to-time approve.

(II) For persons enrolled in a program prior to August 28, 1990, possession of a master's or doctoral degree as defined in *[4 CSR 235-2.001]* **20 CSR 2235-2.001** whose educational emphasis and training was in one of the designated health service provider delivery areas as defined in *[4 CSR 235-1.015(10)]* **20 CSR 2235-1.015(10)**, guidance and counseling, counselor education, mental health services, or such other program as the committee may from time-to-time approve and whose supervised practicum or internship was in the delivery of psychological health services as part of the graduate degree program; and

B. Supervision—section 337.021, RSMo.

(I) For persons licensed or approved to sit for the examination on the basis of a doctoral degree prior to August 28, 1989, one (1) year of post-degree supervised professional experience in the delivery of psychological health services and for persons licensed or approved to sit for the examination on the basis of a master's degree prior to August 28, 1989, three (3) years of postdegree supervised professional experience in the delivery of psychological health services.

(II) For persons obtaining licensure on the basis of a doctoral degree prior to August 28, 1996, one (1) year of post-degree supervised professional experience as defined in *[4 CSR 235-2.020]* **20 CSR 2235-2.020** in the delivery of psychological health services; and for persons obtaining licensure on the basis of a master's degree prior to August 28, 1996, three (3) years of post-degree supervised professional experience as defined in *[4 CSR 235-2.030]* **20 CSR 2235-2.030** in the delivery of psychological health services; provided, however, that all requirements for initial licensure as defined in section 337.021.6, RSMo *[Supp. 1998]* are completed prior to August 28, 1996.

(4) Educational Requirements.

(A) The educational requirements for individuals applying for licensure based upon section 337.025, RSMo for the purpose of obtaining health service provider certification shall be governed by sections 337.033.3 and 337.033.4, RSMo and *[4 CSR 235-2.005]* **20 CSR 2235-2.005**.

(B) The educational requirements for individuals applying for licensure based upon a respecialization program in order to obtain health service provider certification shall be governed by sections 337.033.3 and 337.033.4, RSMo and *[4 CSR 235-2.005]* **20 CSR 2235-2.005**.

(C) Any person licensed as a psychologist in this state based upon a master's degree after August 28, 1989, with the exception of those individuals meeting the requirement of subsection (1)(B), may obtain health service provider certification by meeting the educational requirements as defined in *[4 CSR 235-2.005]* **20 CSR 2235-2.005** in addition to obtaining postdoctoral degree supervision as set forth in *[4 CSR 235-2.040]* **20 CSR 2235-2.040**.

(D) The educational, training, and experience requirements for individuals applying for health service provider certification that have been licensed by reciprocity pursuant to section 337.029, RSMo and/or by endorsement of score pursuant to *[4 CSR 235-2.065]* **20 CSR 2235-2.065** shall be governed by section 337.029.3, RSMo.

(5) Post-Degree Supervision Requirements. The postdoctoral degree supervised professional experience requirements for health service provider certification for an individual receiving licensure as a psychologist after August 28, 1989, pursuant to section 337.025, RSMo shall be governed by *[4 CSR 235-2.040]* **20 CSR 2235-2.040**.

AUTHORITY: sections 337.033 and 337.050.9, RSMo [Supp. 1998] 2000. This rule originally filed as 4 CSR 235-3.020. Original rule filed Feb. 4, 1992, effective Dec. 3, 1992. Amended: Filed July 26, 1999, effective Feb. 29, 2000. Moved to 20 CSR 2235-3.020, effective Aug. 28, 2006. Amended: Filed July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2235—State Committee of Psychologists
Chapter 7—Continuing Education

PROPOSED AMENDMENT

20 CSR 2235-7.005 Definitions. The board is proposing to amend the original purpose statement.

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 235 are being amended throughout the rule.

*PURPOSE: This rule defines terms used in [4 CSR 235] **20 CSR 2235** Chapter 7.*

AUTHORITY: section 337.050.12, RSMo [Supp. 1998] 2000. This rule originally filed as 4 CSR 235-7.005. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.005, effective Aug. 28, 2006. Amended: Filed July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2235—State Committee of Psychologists
Chapter 7—Continuing Education

PROPOSED AMENDMENT

20 CSR 2235-7.010 Continuing Education. The board is proposing to amend sections (2) and (5).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 235 are being amended throughout the rule.

(2) At least fifteen (15) of the forty (40) continuing education (CE) credits must be completed within Category A (i.e., formal programs which meet the requirements of *[4 CSR 235-7.030(1)(A)]* **20 CSR 2235-7.030(1)(A)**); and the remaining twenty-five (25) CE credits must be completed in either Category A or in Category B (i.e., informal programs or hours which meet the requirements of *[4 CSR 235-7.030(1)(B)]* **20 CSR 2235-7.030(1)(B)**).

(5) If in any two (2)-year cycle, the number of continuing education credits earned from Category A in *[4 CSR 235-7.030]* **20 CSR 2235-7.030** exceeds forty (40) credits, the excess credits over forty (40) may be carried over to the next two (2)-year cycle, up to a maximum of fifteen (15) hours.

AUTHORITY: section 337.050.12, RSMo [Supp. 1998] 2000. This rule originally filed as 4 CSR 235-7.010. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.010, effective Aug. 28, 2006. Amended: Filed July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2235—State Committee of Psychologists
Chapter 7—Continuing Education

PROPOSED AMENDMENT

20 CSR 2235-7.020 Continuing Education Reports. The board is proposing to amend section (4).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 235 are being amended throughout the rule.

(4) For the license renewal period commencing February 1, 2001 and every renewal period each two (2) years thereafter every psychologist shall attest on the license renewal application form, compliance with *[4 CSR 235-7.010]* **20 CSR 2235-7.010**. The committee may audit as deemed necessary.

*AUTHORITY: section 337.030, RSMo Supp. [2005] **2007** and **section** 337.050.12, RSMo 2000. This rule originally filed as 4 CSR 235-7.020. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.020, effective Aug. 28, 2006. Amended: Filed July 17, 2006, effective Feb. 28, 2007. Amended: Filed July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2235—State Committee of Psychologists
Chapter 7—Continuing Education

PROPOSED AMENDMENT

20 CSR 2235-7.030 Categories of Continuing Education Programs and Credits. The board is proposing to amend section (1).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 235 are being amended throughout the rule.

(1) The committee recognizes the following categories of continuing education programs, seminars or activities and established credit hours.

(A) Category A formal activities, a minimum of fifteen (15) credits per reporting cycle. Category A activities are defined as—

1. Formal continuing education programs that may consist of programs, seminars, or activities accredited by any accredited or identified sponsor listed in *[4 CSR 235-7.005(1)]* **20 CSR 2235-7.005(1)**. The number of continuing education credits assigned by an association as defined in these rules will be accepted.

2. Regularly scheduled postgraduate courses offered by a "recognized educational institution" as defined in *[4 CSR 235-7.005(7)]* **20 CSR 2235-7.005(7)**, which are relevant to the practice of psychology. One (1) credit hour or the equivalent of academic credit constitutes fifteen (15) continuing education credits.

3. Writing or speaking, including a paper or other presentation at a formal professional meeting, a paper published in a professional journal, or a book or an original chapter in an edited book in the area of psychology or a related field. Credit will be granted for the year of publication or presentation in the case of a paper. Continuing education credits will be granted at the rate of two (2) per presentation, eight (8) for each published journal article or chapter in a published book, ten (10) for editing a published book, and fifteen (15) for the authorship of a published book.

4. Preparation and teaching a graduate level course at a recognized educational institution where the contents of which are primarily psychological. Continuing education credits will be granted at the rate of five (5) hours per class with a maximum of ten (10) per reporting cycle. No single course shall be reported more than one (1) time per reporting cycle.

(B) Category B other programs, seminars, or activities, a maximum of twenty-five (25) credits per reporting cycle of Category B activities may count towards the two (2)-year, forty (40) continuing education credit hour requirement in *[4 CSR 235-7.010]* **20 CSR 2235-7.010**. Category B programs, seminars, or activities are defined as—

*AUTHORITY: section 337.030, RSMo Supp. [2005] **2007** and **section** 337.050.12, RSMo 2000. This rule originally filed as 4 CSR 235-7.030. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.030, effective Aug. 28, 2006. Amended: Filed July 17, 2006, effective Feb. 28, 2007. Amended: Filed: July 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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0061 or via email at scop@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 2270—Missouri Veterinary Medical Board
Chapter 2—Licensure Requirements for Veterinarians

PROPOSED AMENDMENT

20 CSR 2270-2.021 Internship or Veterinary Candidacy Program. The board is proposing to amend sections (1) and (5).

PURPOSE: This amendment requires that the completion of an internship or veterinary candidacy program located outside of the United States be approved by the Missouri Veterinary Medical Board and the credentials of the supervising veterinarian be provided. This amendment also allows pre-approval of all student preceptor programs located outside of the United States.

(1) All applicants for licensure by examination shall complete a three hundred twenty (320) hour postgraduate internship or veterinary candidacy program under the supervision of a licensed veterinarian in good standing or demonstrate the practice of veterinary medicine without encumbrance in another state or jurisdiction at least twelve (12) months prior to application for licensure in Missouri. To be in good standing the veterinarian's license(s) must be current and unencumbered. The postgraduate internship or veterinary candidacy program may be completed in any state, territory or district of the United States or Canada. **The postgraduate internship or veterinary candidacy program located outside the United States must be approved by the board. The applicant must submit a request for approval in writing and provide the credentials of the supervising veterinarian.**

(5) Completion of a student preceptor program which is recognized and approved by the board prior to graduation may be substituted for the internship or veterinary candidacy program. The board shall have the sole discretion as to whether or not the preceptor program will qualify in lieu of the internship or veterinary candidacy program. This program shall be defined by the curriculum of the veterinary school or university and must include a minimum of three hundred twenty (320) hours of work experience in the following areas: diagnosis, treatment, surgery**,** and practice management. The student preceptor program may not begin before the start of the student's third year and must be completed prior to the date of graduation or demonstration that the applicant has practiced in another state or jurisdiction for the preceding twelve (12) months prior to application for licensure in Missouri and that the applicant's license(s) in another state or jurisdiction has never been the subject of any disciplinary action. **A student preceptor program located outside the United States must be pre-approved by the board. The applicant must submit a request for approval in writing and provide the credentials of the supervising veterinarian.**

*AUTHORITY: sections 340.200 and 340.246, RSMo Supp. [2006] **2007** and **section** 340.210, RSMo 2000. This rule originally filed as 4 CSR 270-2.021. Original rule filed Nov. 4, 1992, effective June 1, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed July 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 Veterinary Medical Board, Attention: Dana Hoelscher, PO Box 633, Jefferson City, MO 65102, via fax at (573) 526-3856 or via email at vets@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 2270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards

PROPOSED AMENDMENT

20 CSR 2270-4.050 Minimum Standards for Continuing Education for Veterinary Technicians. The board is proposing to amend sections (2) and (8).

PURPOSE: The proposed amendment further clarifies the requirements for continuing education.

(2) At least three (3) hours of the five (5) hour per year requirement shall be obtained by *[attending]*—

(A) Attending a formal meeting *[.]***; or**

(B) Completion of audio or video recordings, electronic, computer, or interactive materials or programs on scientific subjects prepared or sponsored by the Board or the American Association of Veterinary State Boards (AAVSB) or its successor – Registry of Approved Continuing Education (RACE). The licensee must obtain written certification of course completion from the sponsor.

(8) Any licensee who seeks to renew an inactive, retired, or noncurrent registration shall submit proper evidence that s/he has obtained at least five (5) continuing education hours for each year that his/her registration was inactive, retired, or noncurrent. These required approved continuing education credits shall not exceed a total of twenty (20) hours. The required hours must have been obtained within three (3) years prior to renewal.

AUTHORITY: sections 41.946, 340.210, 340.258, and 340.324, RSMo 2000. This rule originally filed as 4 CSR 270-4.050. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed April 13, 2001, effective Oct. 30, 2001. Amended: Filed June 25, 2004, effective Dec. 30, 2004. Moved to 20 CSR 2270-4.050, effective Aug. 28, 2006. Amended: Filed July 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 Veterinary Medical Board, Attention: Dana Hoelscher, PO Box 633, Jefferson City, MO 65102, via fax at (573) 526-3856 or via email at vets@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.*

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

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for Movement of Livestock, Poultry and Exotic Animals

ORDER OF RULEMAKING

By the authority vested in the director of agriculture under section 267.645, RSMo 2000, the director amends a rule as follows:

2 CSR 30-2.040 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 1, 2008 (33 MoReg 717–723). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Agriculture received four (4) comments on the proposed amendment.

COMMENTS #1 and #2: Concerned with Missouri's proposed requirement for tuberculosis testing on rodeo stock. The current wording says "all cattle" and does not mention age. Does this include calves for roping events and leasing of animals for these events?

RESPONSE AND EXPLANATION OF CHANGE: To clarify the tuberculosis testing requirement for cattle used for rodeo or time events, the intent was for adult cattle (eighteen (18) months of age and over) to be tuberculosis tested. The age clarification will be added to the regulation.

COMMENT #3: Scabies, which is a reportable disease, was deleted from the proposed amendment. Did you want to do that?

RESPONSE AND EXPLANATION OF CHANGE: Scabies is not listed as a reportable disease with the Missouri Department of Agriculture. Missouri has not had any incidents of scabies but to protect animals from the importation of any communicable disease, the requirements for scabies will not be deleted from Missouri's interstate exhibition requirements for sheep.

COMMENT #4: Staff noted in subsection (2)(G) a discrepancy in the type of identification acceptable for ratites; omission of intrastate requirements for camels, llamas, and alpacas in subsection (2)(I); and in subparagraph (2)(J)2.B., the words "or copy of an electronic Certificate of Veterinary Inspection" should be deleted to be consistent throughout 2 CSR 30-2.040.

RESPONSE AND EXPLANATION OF CHANGE: Corrections will be made.

2 CSR 30-2.040 Animal Health Requirements for Exhibition

(2) The following listed minimal health and testing requirements on livestock are for exhibition only and do not qualify livestock to be sold or moved to a new owner or destination.

(A) Exhibition Requirements for Cattle and Bison.

1. Intrastate (Missouri origin cattle and bison moving for exhibition).

A. No Certificate of Veterinary Inspection is required.

B. Brucellosis—no test is required.

C. Tuberculosis—no test is required.

2. Interstate (cattle and bison entering Missouri for exhibition only).

A. A Certificate of Veterinary Inspection is required with official individual identification for each animal listed.

B. Brucellosis.

(I) Cattle from brucellosis-free states.

(a) All cattle may enter without a brucellosis test.

(b) Steers. No test required but the steer(s) must be listed and identified on a Certificate of Veterinary Inspection.

(II) Sexually intact cattle from brucellosis Class A states. All test-eligible animals must be tested and negative within thirty (30) days prior to entry except—

(a) Cattle from a certified brucellosis-free herd. The certified herd number and the date of the last test must be listed on the Certificate of Veterinary Inspection;

(b) Steers. No tests required but the steer(s) must be listed and identified on a Certificate of Veterinary Inspection; and

(c) Rodeo bulls from a Class A state must have a brucellosis test within twelve (12) months.

C. Tuberculosis.

(I) Dairy—all sexually intact dairy cattle six (6) months of age and older entering Missouri for exhibition must be negative to an official tuberculosis test within sixty (60) days prior to exhibition, except dairy cattle that move from an accredited tuberculosis-free herd. The herd number and date of last test must be listed on the Certificate of Veterinary Inspection.

(II) Beef—all beef breeding cattle six (6) months of age and older entering Missouri for exhibition must meet one (1) of the following requirements:

(a) Originate from a tuberculosis-free state;

(b) Originate from a tuberculosis-accredited free herd. The herd number and date of last test must be listed on the Certificate of Veterinary Inspection; or

(c) Test negative within sixty (60) days prior to exhibition.

(III) All cattle eighteen (18) months of age and over must have a negative tuberculosis test within twelve (12) months of exhibition.

(C) Exhibition Requirements for Sheep in Missouri.

1. Intrastate (Missouri origin sheep moving for exhibition).

A. Sheep must be free of clinical signs of an infectious or contagious disease. All sheep, including wethers, must be accompanied by a Certificate of Veterinary Inspection showing official identification (eartag, electronic implant, or registration tattoo) as defined in Title 9, *Code of Federal Regulations*, Part 79, January 1, 2008, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street, NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions. If electronic implants are used for identification, owner/manager must provide electronic implant reader.

B. No tests are required.

C. Scabies.

(I) Sheep from a scabies-quarantined area must be dipped or treated by an officially approved method within ten (10) days prior to exhibition.

2. Interstate (sheep entering Missouri for exhibition only).

A. Sheep must be free of clinical signs of an infectious or contagious disease. All sheep, including wethers, must be accompanied by a Certificate of Veterinary Inspection showing official identification (eartag, electronic implant, or registration tattoo) as defined in Title 9, *Code of Federal Regulations*, Part 79, January 1, 2008, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street, NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions. If electronic implants are used for identification, owner/manager must provide electronic implant reader.

B. No tests or entry permits are required.

C. Scabies.

(I) Sheep from a scabies-quarantined area must be dipped or treated by an officially approved method within ten (10) days prior to exhibition.

(II) A permit number must be obtained and recorded on a Certificate of Veterinary Inspection if the sheep are from a scabies-quarantined area.

(G) Exhibition Requirements for Ratites.

1. Intrastate (Missouri origin ratites, including but not limited to ostrich, rheas, and emus, moving for exhibition).

A. All ratites must be free of clinical signs of any infectious or contagious disease.

B. A Certificate of Veterinary Inspection is not required.

C. Ratites must be officially identified by leg band, microchip, wing band, or legible tattoo.

D. No test is required.

2. Interstate (ratites, including but not limited to ostrich, rheas, and emus, entering Missouri for exhibition only).

A. All ratites must be free of clinical signs of any infectious or contagious disease.

B. All ratites must be accompanied by a Certificate of Veterinary Inspection showing official identification (leg band, microchip, wing band, or legible tattoo).

C. No test is required.

D. An entry permit is required.

(I) Exhibition Requirements for Camelids.

1. Intrastate (Missouri origin alpacas, camels, llamas, and others of that group moving for exhibition).

A. All alpacas, camels, llamas, and others of that group must be free of clinical signs of infectious or contagious disease.

2. Interstate (alpacas, camels, llamas, and others of that group entering Missouri for exhibition only).

A. All alpacas, camels, llamas, and others of that group must be free of clinical signs of infectious or contagious disease.

B. A Certificate of Veterinary Inspection is not required.

C. All alpacas, camels, llamas, and others of that group must be officially identified by legible tattoo, microchip, or eartag.

D. No test is required.

(J) Exhibition Requirements for Dogs and Cats.

1. Intrastate (Missouri origin dogs and cats moving for exhibition).

A. All dogs and cats must be free of clinical signs of any infectious or contagious disease.

B. No Certificate of Veterinary Inspection is required.

C. All dogs and cats four (4) months of age or older must be vaccinated for rabies by one (1) of the methods and within the time period published in the 2008 *Compendium of Animal Rabies Vaccines* by the National Association of State Public Health Veterinarians, Inc., incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street, NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions.

2. Interstate (dogs and cats entering Missouri for exhibition only).

A. All dogs and cats must be free of clinical signs of any infectious or contagious disease.

B. All dogs and cats must be accompanied by a Certificate of Veterinary Inspection.

C. All dogs and cats four (4) months of age or older must be vaccinated for rabies by one (1) of the methods and within the time period published in the 2008 *Compendium of Animal Rabies Vaccines* by the National Association of State Public Health Veterinarians, Inc., incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street, NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions.

D. No entry permit is required.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 1—Wildlife Code: Organization

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-1.010 Organization and Methods of Operation **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 2, 2008 (33 MoReg 1073–1075). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.440 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo, from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.440 by establishing seasons and limits for hunting migratory waterfowl during the 2008 season.

3 CSR 10-7.440 Migratory Game Birds and Waterfowl: Seasons, Limits

PURPOSE: This amendment establishes season dates and bag limits for hunting waterfowl within frameworks established by the U.S. Fish and Wildlife Service for the 2008 season.

(3) Seasons and limits are as follows:

(D) Wilson's snipe may be taken from one-half (1/2) hour before sunrise to sunset from September 1 through December 16. Limits: eight (8) snipe daily; sixteen (16) in possession.

(E) Blue-winged, green-winged, and cinnamon teal may be taken from sunrise to sunset from September 6 through September 21. Limits: four (4) teal in the aggregate of species daily; eight (8) in possession.

SUMMARY OF PUBLIC COMMENT: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed July 7, 2008, effective **August 1, 2008**.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.109 Closed Hours **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 2, 2008 (33 MoReg 1075). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.135 Fishing, Methods **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 2, 2008 (33 MoReg 1075–1076). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.140 Fishing, Daily and Possession Limits **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 2, 2008 (33 MoReg 1076). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 200—Insurance Solvency and Company Regulation
Chapter 18—Service Contracts

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Insurance, Financial Institutions and Professional Registration under section 385.218, RSMo Supp. 2007, the director amends a rule as follows:

20 CSR 200-18.010 Registration of Motor Vehicle Extended Service Contract Providers **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 3, 2008 (33 MoReg 557). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed

amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held April 11, 2008, and the public comment period ended April 11, 2008. At the public hearing, the Insurance Solvency and Company Regulation Division staff explained the proposed amendment and no comments were made.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 200—Insurance Solvency and Company Regulation
Chapter 18—Service Contracts

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Insurance, Financial Institutions and Professional Registration under section 385.218, RSMo Supp. 2007, the director amends a rule as follows:

20 CSR 200-18.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 3, 2008 (33 MoReg 557–559). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held April 11, 2008, and the public comment period ended April 11, 2008. At the public hearing, the Insurance Solvency and Company Regulation Division staff explained the proposed amendment and one (1) comment was made.

COMMENT #1: Albert Shoemaker with Insurance Solvency and Company Regulation Division submitted a written comment in which he gave two (2) examples where the Guaranty of Motor Vehicle Service Contract Obligation form could be improved. On page 1, the first blank space is followed by "a Missouri corporation (the "Provider")," which caused problems for corporations from other states. Also, on page 2, the witness, by (title), and address boxes could be clarified.
RESPONSE AND EXPLANATION OF CHANGE: Both of these suggested changes were made to the Guaranty of Motor Vehicle Service Contract Obligation form to make it easier for all corporations to complete and to clarify the information requested.

20 CSR 200-18.020 Faithful Performance of a Motor Vehicle Extended Service Contract Provider's Obligations

(3) Forms. The following forms have been adopted and approved for filing with the director under this rule:

(B) The Guaranty of Motor Vehicle Service Contract Provider Obligations Form (Form SC-2), revised on May 19, 2008. 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 200—Insurance Solvency and Company Regulation
Chapter 18—Service Contracts

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Insurance, Financial Institutions and Professional Registration under section 385.318, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 200-18.110 Registration of Service Contract Providers (Non-Motor Vehicle) **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 559–560). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held April 11, 2008, and the public comment period ended April 11, 2008. At the public hearing, the Insurance Solvency and Company Regulation Division staff explained the proposed amendment and no comments were made.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 200—Insurance Solvency and Company Regulation
Chapter 18—Service Contracts

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Insurance, Financial Institutions and Professional Registration under section 385.318, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 200-18.120 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 561–562). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held April 11, 2008, and the public comment period ended April 11, 2008. At the public hearing, the Insurance Solvency and Company Regulation Division staff explained the proposed amendment and one (1) comment was made.

COMMENT #1: Albert Shoemaker with Insurance Solvency and Company Regulation Division submitted a written comment in which he gave two (2) examples where the Guaranty of Motor Vehicle Service Contract Obligation form could be improved. On page 1, the first blank space is followed by "a Missouri corporation (the "Provider")," which caused problems for corporations from other states. Also, on page 2, the witness, by (title), and address boxes could be clarified.

RESPONSE AND EXPLANATION OF CHANGE: Both of these suggested changes were made to the Guaranty of Motor Vehicle Service Contract Obligation form to make it easier for all corporations to complete and to clarify the information requested.

20 CSR 200-18.120 Faithful Performance of a Service Contract Provider's Obligations (Non-Motor Vehicle)

(3) Forms. The following forms have been adopted and approved for filing with the director under this rule:

(B) The Guaranty of Service Contract Obligations Form (Form SC-4), revised on May 19, 2008. 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 7—Title

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.042 and 381.118, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 500-7.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 562–563). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008, and the comment period ended at 5:00 p.m. on April 10, 2008. At the public hearing and in written comments, department staff explained the proposed rule, made comments in support of the proposed rule, and suggested changes to the proposed rule. At the public hearing and in written comments, representatives of the Missouri Title Legislative Study Group, Missouri Land Title Association (MLTA), LandChoice/Tri-Lakes Title & Escrow, Mortgage Bankers Association of Missouri, Central Mortgage Company, and First Title Insurance Agency made comments regarding the rule.

COMMENT #1: David Cox, on behalf of the Department of Insurance, Financial Institutions and Professional Registration, commented that there is a possible problem with the definition of subsection (2)(F) Risk Rate. While this definition is not changed from the rules previously adopted, the definition of subsection (2)(A) Charge has been shortened to its statutory definition. A prior rule included a more expansive definition of charge. Because the definition of subsection (2)(F) Risk rate relies on the definition of subsection (2)(A) Charge, the scope of the risk rate could be expanded if the scope of charge is reduced. Likewise, the definition of subsection (2)(I) Title service charge depends on the definition of charge and is also impacted. The prior rule makes it clear that fees for abstract and search and examination are a charge and therefore cannot be included as an element of the title insurance risk rate. These service fees are significant, and their inclusion in the title insurance risk rate may result in a significant change in filed rates under statutory provisions not altered by Senate Bill 66. Mr. Cox suggested subsection (2)(F) to read as follows:

> "Risk rate," the total consideration paid by or on behalf of the insured for a title insurance policy. Risk rate shall include the title insurance agent's commission but shall not include any charge as defined in section 381.031.4, RSMo 1994, or any fees for abstracts, title search and examination;

Mr Cox also suggested subsection (2)(I) to read as follows:

> "Title service charge," any charge as defined in 20 CSR 500-7.020, including any fees for abstracts, title search and examination and excluding any closing protection fee or any fee for the handling of escrows, settlements or closing;

Alternatively, Mr. Cox suggested reinstating the previous definition of charge. Mr. Cox testified that his suggested change is necessary to preserve the long standing meaning of "risk rate," which is consistent with prior Missouri law, Senate Bill 66, and industry norms.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees with Mr. Cox's alternative suggestions and has modified this rule and 20 CSR 500-7.100 accordingly.

COMMENT #2: Michael Malone, on behalf of the Missouri Title Legislative Study Group, expressed support for restoring the definition of charge. Mr. Malone is opposed to changing the definition of risk rate because it is clearly defined by statute.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees with Mr. Malone's suggestion and has modified this rule and 20 CSR 500-7.100 accordingly.

COMMENT #3: Joseph Roeger, on behalf of First Title Insurance Agency, commented that if the currently filed title insurance risk rates are not revised to include the title agent's commission, the disclosure provisions in proposed rule 20 CSR 500-7.050 would require title agents to separately disclose the split in premium between title underwriter and title agent. These disclosures of agency premium commission are not required for any other line of insurance. Mr. Roeger questions what legitimate public purpose would this serve? Consumers would be better protected and served if they could compare total title insurance premium paid, as defined to include agency commission similar to other insurance lines, rather than being left to piece together the premium. Mr. Roeger commented that he recognizes that the concept of risk rates was revised in the mid-1990s as an innovative approach to the computation of premium taxes. However, the proposed rules require that title agents must make disclosures not required by any other type of licensed insurance agent. The independent title insurance agents of Missouri need relief from this unintended consequence.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees that changing the definition of "charge" and "risk rate" may have unintended consequences. As such, he has modified the rule to remove the definition of "charge" and "risk rate" and reinstated the prior definitions in proposed amendment 20 CSR 700-7.100.

COMMENT #4: John Coghlan, on behalf of Nicole Hoff and the Missouri Land Title Association, commented that the rule may be ambiguous if the department fails to incorporate the statutory definitions found in section 381.031, RSMo, for the definition of charge in subsection (2)(A) of this rule.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees that changing the definition of "charge" and "risk rate" may have unintended consequences. As such, he has modified the rule to remove the definition of "charge" and "risk rate" and reinstated the prior definitions in proposed amendment 20 CSR 700-7.100.

COMMENT #5: Stephen Babbit and Douglas Monroe, both on behalf of LandChoice/Tri-Lakes Title & Escrow, commented that subsection (2)(C) Closing protection fee contains the phrase "calculated from the rate filed with the director," while subsection (2)(F) Risk rate does not. Both the rates for closing protection letters and

premium (risk rate) are required by statute to be filed with the director, and (if not disapproved) title insurers, agencies, and agents are required to use those rates in determining the amounts to be charged. Since these are the two (2) regulated areas, it would seem that the language dealing with them should be the same. It would reinforce that both are regulated costs as opposed to unregulated charges. Mr. Babbit and Mr. Monroe suggested that subsection (2)(F) Risk rate be amended to mirror subsection (2)(C) Closing protection fee.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees that changing the definition of "charge" and "risk rate" may have unintended consequences. Further alterations as suggested by Mr. Babbit and Mr. Monroe are not necessary and could also have unintended consequences. As such, the director has modified the rule to remove the definition of "charge" and "risk rate" and reinstated the prior definitions in proposed amendment 20 CSR 700-7.100.

COMMENT #6: Joseph Roeger, on behalf of First Title Insurance Agency, commented that title insurers currently file risk rates that do not include the title agent's commission. Unless title insurers file new rates in accordance with this rule, the "title insurance premium," as defined in accordance with proposed rule 20 CSR 500-7.050(1)(A)1. will include only the amount of the premium retained by the title insurers. Title insurers have no intention of filing new rates that include the title agent's commission. Would this be a violation of subsection (2)(F)?
RESPONSE: Subsection (2)(F) is a definition, and licensees cannot violate definitions. Some in the industry continue to confuse commission, which is included in the risk rate, with "any fees for abstract and title search and examination," which are charges, and therefore are not included in the risk rate. No changes have been made to the rule in response to this comment.

COMMENT #7: Andy Arnold and Michael T. Malone, both on behalf of the Missouri Title Legislative Study Group, commented that the term "residential transaction" lacks clarity with regard to acreage. Mr. Malone requested that the definition in subsection (2)(G) be modified to limit residential transactions to five (5) acres or less to comport with both Housing and Urban Development (HUD) and Veterans Affairs (VA) definitions.
RESPONSE: The director believes the definition of "residential real estate transaction" is appropriate, practical, and reasonable. Limiting the definition to owner-occupied properties or by acreage would unnecessarily deprive some consumers of the benefits of Senate Bill 66, including closing protection letters and price disclosures. No changes have been made to the rule as a result of this comment.

COMMENT #8: John Coghlan, on behalf of Nicole Hoff and the Missouri Land Title Association, and Andy Arnold and Michael Malone, both on behalf of the Missouri Legislative Title Study Group, commented that the definition is subsection (2)(G) Residential real estate transaction should be modified to limit the definition with an acreage limitation.
RESPONSE: The director believes the definition of "residential real estate transaction" is appropriate, practical, and reasonable. Limiting the definition to owner-occupied properties or by acreage would unnecessarily deprive some consumers of the benefits of Senate Bill 66, including closing protection letters and price disclosures. No changes have been made to the rule as a result of this comment.

COMMENT #9: John Coghlan, on behalf of Nicole Hoff and the Missouri Land Title Association, commented that the definition of subsection (2)(G) Residential real estate transaction should be limited to owner-occupied properties.
RESPONSE: The director believes the definition of "residential real estate transaction" is appropriate, practical, and reasonable. Limiting the definition to owner-occupied properties or by acreage would unnecessarily deprive some consumers of the benefits of Senate Bill 66, including closing protection letters and price disclosures. No changes have been made to the rule as a result of this comment.

COMMENT #10: Harry Gallagher, on behalf of the Mortgage Bankers Association of Missouri, and Wade Nash, on behalf of the Missouri Bankers Association, support the proposal as written by the department. Mr. Gallagher noted that suggested changes could cause some of the problems, including defalcations that were reasons for SB 66 (2007). Mr. Gallagher and Mr. Nash expressed opposition to the suggestion that properties exceeding five (5) acres be exempted because home purchasers on these properties should be afforded the same protections as those with smaller lots.
RESPONSE: The director agrees with Mr. Gallagher's comments. No changes were made in response to Mr. Gallagher's comments.

COMMENT #11: Rick Hollenberg, on behalf of Central Mortgage Company, opposed the suggested modification of subsection (2)(G) Residential real estate transaction to exempt non-owner-occupied transactions. Non-owner-occupied transactions comprise a significant percentage of the mortgage transactions in the state of Missouri. According to 2005 and 2006 HMDA data, Missouri had on average thirty thousand (30,000) non-owner-occupied transactions representing more than $3.25 billion. Investor-owned properties afford suitable housing for many until which time homeownership becomes a reality. Without the protection of the Act (SB 66) for these transactions, both lenders and buyers will be exposed to the very defalcations that necessitated the Act in the first place.
RESPONSE: The director agrees with the comment and, accordingly, no changes have been made to the rule.

COMMENT #12: Rick Hollenberg, on behalf of Central Mortgage Company, opposed the suggested modification of subsection (2)(G) Residential real estate transaction to exempt properties with acreage exceeding five (5) acres. Fannie Mae and Freddie Mac removed their thirty (30)-acre maximum many years ago as long as the properties are used for "conforming use" or primarily for a single family dwelling and not a "family compound." Homebuyers purchasing homes with more than five (5) acres should not be given less settlement fund protection than those with less acreage.
RESPONSE: The director agrees with the comment and, accordingly, no changes have been made to the rule.

COMMENT #13: Andy Arnold and Michael Malone, on behalf of the Missouri Legislative Title Study Group, commented that a definition of "material transaction" would be helpful. Material transaction is used in proposed rule 20 CSR 500-7.070 Affiliated Business Arrangements, Form T-5, and section 381.029.3, RSMo.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has modified the rule accordingly.

COMMENT #14: David Cox, on behalf of the Department of Insurance, Financial Institutions and Professional Registration, commented that the definition of "residential real estate" provided in the rule is appropriate, practical, and reasonable. He pointed out that the definition is consistent with Missouri statute section 339.503(19) and applicable to real estate agents, brokers, appraisers, and escrow agents.
RESPONSE: The director agrees with the comment and, accordingly, no changes have been made to the rule.

20 CSR 500-7.020 Scope and Definitions

(2) Definitions. As used in this chapter, the following terms shall mean:

(A) "Closing protection letter," a letter issued on behalf of a title insurer, which indemnifies a buyer, lender, or seller solely against losses not to exceed the amount of settlement funds because of the acts set forth in section 381.058, RSMo;

(B) "Closing protection fee," the consideration paid by or on behalf of the buyer, borrower, lender, or seller for a closing protection letter calculated from the rate filed with the director;

(C) "Director," the director of the department;

(D) "Department," the Department of Insurance, Financial Institutions and Professional Registration;

(E) "Material transaction," a single transaction with a monetary value of one hundred dollars ($100) or more, or the aggregate of any series of transactions with a monetary value of six hundred dollars ($600) or more, during the reporting period and which are between the agency and a party with a financial interest in the agency or in which the agency holds a financial interest. Material transactions shall not include:

1. Employee salaries or bonuses; or

2. Profit distributions in proportion to financial interests; or

3. Any payment reflected on a settlement statement or pursuant to an escrow agreement; or

4. Any payment to a realtor for commission;

(F) "Residential real estate transaction," the sale, purchase, financing, or refinancing of a house or other dwelling designed principally for the occupancy of from one to four (1–4) families, but does not include transactions involving real estate designed for business, commercial, or agricultural purposes;

(G) "Title insurance premium," the premium in a title insurance transaction;

(H) "Title service charge," any charge as defined in 20 CSR 500-7.100, except for any closing protection fee or any fee for the handling of escrows, settlements, or closing;

(I) "Premium," as defined in section 381.031.14, RSMo 1994, and reviewed under section 381.171, RSMo 1994; and

(J) "Price estimate," a good faith estimate or prediction of prices based upon information presented at the time of the estimate.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 7—Title

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and section 381.042, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 500-7.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 563).Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008 and the comment period ended at 5:00 p.m. on April 10, 2008. No public comments were received.

COMMENT: Staff review indicated forms should be revised and incorporated by reference in this rule.
RESPONSE AND EXPLANATION OF CHANGE: The director has incorporated the forms by reference, modified the revised date on several forms, and deleted section (3) as that language is now included in section (1) in response to comments on separate rules. Section (4) is renumbered as section (3).

20 CSR 500-7.030 General Instructions

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) Filing and Report Forms. The following forms are incorporated by reference and approved for filing with the department. The forms contain no later amendments or additions and are available to the public for inspection and copying at the department's website at www.insurance.mo.gox or at the department offices at 301 West High Street, Room 530, Jefferson City, MO 65101.

(A) The Title Insurance Premium and Title Service Charge Disclosure form (Form T-1), revised on June 25, 2008, or any form which substantially comports with the specified form.

(B) The Notice of Availability of Owner's Title Insurance form (Form T-2), revised on January 17, 2008, or any form which substantially comports with the specified form.

(C) The Notice of Closing or Settlement Risk form (Form T-3), revised on June 25, 2008, or any form which substantially comports with the specified form.

(D) The Affiliated Business Disclosure form (Form T-4), approved by the United States Housing and Urban Development on November 15, 1996, in Appendix D to 24 CUR part 3500, or any form which substantially comports with the specified form.

(E) The Agency Financial Interest Report form (Form T-5A), revised on June 26, 2008, or any form which substantially comports with the specified form.

(F) The Affiliated Business Arrangement Report (Form T-5B), revised on June 26, 2008, or any form which substantially comports with the specified form.

(G) The Uniform Premium (Risk Rate) Report form (Form T-7), revised January 1, 2008, or any form which substantially comports with the specified form.

(H) The Seller's Closing Protection Letter form (Form T-8 and Form T-8alt), revised on January 17, 2008, or any form which substantially comports with the specified form.

(I) The Buyer's or Lender's Closing Protection Letter form (Form T-9 and Form T-9alt), revised on January 17, 2008, or any form which substantially comports with the specified form.

(J) The Title Plant Registration form (Form T-12), revised on May 21, 2008, or any form which substantially comports with the specified form.

(3) Filing Fees. All reports, filings, or amendments to reports required to be filed by title insurers under this chapter shall be accompanied by a filing fee of fifty dollars ($50) as required by section 374.230(5), RSMo.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 7—Title

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under

section 374.045, RSMo 2000 and sections 381.019 and 381.042, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 500-7.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 563–565). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008 and the comment period ended at 5:00 p.m. on April 10, 2008. At the public hearing and in written comments, department staff explained the proposed rule, made comments in support of the proposed rule, and suggested changes to the proposed rule. At the public hearing and in written comments, representatives of the Missouri Title Legislative Study Group, Missouri Land Title Association (MLTA), Mortgage Bankers Association of Missouri, Central Mortgage Company, Missouri Bankers Association, and U.S. Title made comments regarding the rule.

COMMENT #1: Michael T. Malone and Andy Arnold, on behalf of the Missouri Title Legislative Study Group, and James Durham and John Coghlan, on behalf of the Missouri Land Title Association, commented that a confusing situation for consumers can occur when an agent is required to disclose a premium where the underwriter for the transaction is unknown at the time of disclosure. An agent or agency representing multiple underwriters with different risk rate filings will not know which premium to disclose. Mr. Malone suggested that the disclosure include an estimate of the highest risk rate ("premium") filed of all the underwriters represented by the agent or agency.
RESPONSE: Title insurers, title agencies, and title agents may choose which underwriter's rates to use when providing a price estimate. The director will not mandate which underwriter's rates must be used when providing a price estimate because doing so may hinder competition. No changes have been made to the rule in response to this comment.

COMMENT #2: John Coghlan, on behalf of Missouri Land Title Association, commented that the proposed rule creates a slight misrepresentation of fact. While title premiums and closing protection fees are determined by rates filed with the state, those rates may vary depending on the nature of the transaction or the insurer providing the coverage, yet the disclosure mandated by the rule will almost certainly leave the impression that these amounts are immutable. Mr. Coghlan suggested subsection (1)(C) be amended as follows:

> If the above prices are disclosed, the amount may also be totaled. Nothing in this rule requires that the estimate given be the amount charged at closing. The estimate given to the consumer under this rule may be exceeded subsequent to the disclosure if information becomes available to the title insurer, title agency, or title agent before closing.

Further, Mr. Coghlan suggested that Form T-1 contain a notice to the consumer that the estimate may be exceeded if the disclosing entity later obtains information causing the prices to be increased beyond the disclosed amount. Mr. Coghlan suggested that Form T-1 be modified to incorporate the following notice:

> "The estimate given above may change and be far more than what is stated based on additional information obtained while preparing the title work and other closing documents."

RESPONSE: The director disagrees with this comment. Form T-1 Title Insurance Premium and Title Service Charge Disclosure Statement clearly states that the estimate is provided "based on the information available to us at this time. . ." This language was added to Form T-1 in response to industry comments nearly identical to those raised by Mr. Coghlan. No changes have been made to the rule in response to this comment.

COMMENT #3: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: Agent is a policy-issuing agent for several underwriters. Each underwriter has a different risk rate for the same type of policy filed with the department. An agent does not always know which underwriter will be used for a given transaction at the time the pricing disclosure must be made. Is an agent in compliance if:

(a) It always discloses the highest risk rate of all its underwriters for that type of policy (unless a specific underwriter has already been identified)?

(b) It averages the risk rates of all its underwriters for that type of policy and discloses that average (unless a specific underwriter has already been identified)?

Andy Arnold, on behalf of the Missouri Title Legislative Study Group, made a comment very similar to Ms. Hoff's and suggested that language be added to the disclosure to the effect of "Where an agent represents multiple underwriters, the highest published risk rate would be the one quoted."
RESPONSE: Title insurers, title agencies, and title agents may choose which underwriter's rates to use when providing a price estimate. The director will not mandate which underwriter's rates must be used when providing a price estimate. The rule does not authorize insurers, agencies, or agents to average risk rates. However, Form T-1 may be modified by the insurer, agency, or agent to specify an underwriter, if known, and clarify the facts upon which the estimate is made. No changes have been made to the rule in response to this comment.

COMMENT #4: John Coghlan, on behalf of Missouri Land Title Association, and Nancy LoRusso, on behalf of U.S. Title, commented that subsection (1)(D) exceeds the rulemaking authority granted by section 381.019, RSMo and is vague. The rule mandates that the title insurer, agency, or agent disclose additional information not required by the statute upon further inquiry or request by a prospective purchaser for explanation. The title insurer, agency, or agent risks citation for a level 2 violation for failing to provide additional information about pricing if the prospective customer asks a question about the timing for the closing, or an even greater risk if the prospective customer asks whether it will cost more to hurry the timing of the closing.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees that the disclosure should not be mandatory; however, some regulatory guidance is appropriate to promote competition. The director has modified the rule in response to this comment.

COMMENT #5: Rick Hollenberg, on behalf of Central Mortgage Company, and Wade Nash, on behalf of the Missouri Bankers Association, expressed support for subsection (1)(D) as written regarding disclosures upon further inquiry by a prospective purchaser of title insurance. Mr. Hollenberg commented that this provision is imperative to insuring that the consuming public is aware of which charges are filed with the state and which are negotiable. Without this information the public is potentially denied their right to ascertain their best execution. As a lender, Mr. Hollenberg commented that we are required to provide the consumer with a Good Faith Estimate of closing costs along with a Truth-in-Lending statement stating the Annual Percentage Rate (APR) within three (3) days of the application to allow them to shop for the best financing terms. Mr. Hollenberg is concerned that if this language is stricken that we are denying the public the very right that has been so rightly guaranteed in all other areas of the residential real estate transaction. Mr. Nash further commented that by avoiding these disclosures, the innocent borrower never learns the mechanics of the market place.
RESPONSE: The director agrees with this comment, and, accordingly, no changes have been made to the rule in response to this comment.

COMMENT #6: Nancy LoRusso, on behalf of U.S. Title, suggested that "title service charges" be clearly defined.
RESPONSE: "Title service charge" is defined in proposed rule 20 CSR 500-7.020 Scope and Definitions. No changes have been made to this rule in response to this comment.

COMMENT #7: Nancy LoRusso, on behalf of U.S. Title, commented that the premium (risk rate) quote should state whether the rate is based on original rate or reissue rate (if applicable).
RESPONSE: Form T-1 may be modified by the insurer, agency or agent to specify an underwriter, if known, and the type of policy to be issued, if known, and clarify the facts upon which the estimate is made. No changes have been made to the rule in response to this comment.

20 CSR 500-7.050 Disclosure of Premiums and Charges

(1) Disclosure with Title Order.

(A) When a prospective purchaser of title insurance or other party to the residential real estate transaction contacts a title insurer, title agency, or title agent to order a title insurance policy, the following price estimate must be disclosed:

1. Title insurance premium as calculated based upon the filed title insurance risk rate(s);
2. Closing protection fee as calculated based upon the filed closing protection rate;
3. Title service charges including, but not limited to, abstracts and search and examination fees; and
4. Closing or settlement charges.

(B) The above items, if applicable, may be disclosed orally or in writing.

(D) Upon further inquiry or request by a prospective purchaser of title insurance or other party to the residential real estate transaction for explanation, the title insurer, title agency, or title agent may disclose orally that title premium and closing protection fee are determined by rate schedules filed with the state, but if so disclosed, shall at the same time also disclose that the title service charges, closing charges, and other charges are not filed with the state.

(E) If the title insurer, title agency, or title agent discloses the above information in writing when giving a price estimate, the following disclosure statement (Form T-1), or a statement that substantially comports with the following, is acceptable:

Title Insurance Premium and Title Service Charge Disclosure Statement

To: _____

Based upon the information available to us at this time, we estimate that you will pay, as part of your residential real estate transaction, the following premiums, charges, and/or fees:

1) Title insurance premium _____
2) Closing protection fee(s) _____
3) Title service charge(s) (i.e., search and examination, clearing items, etc.) _____
4) Closing charge(s) _____

Title insurance premium and a closing protection fee have been calculated according to rates filed with the Missouri Department of Insurance, Financial Institutions and Professional Registration. However, title service charges, closing charges, and other fees are not limited by state law.

For further general information regarding title insurance, you may visit the Missouri Insurance website at www.insurance.mo.gov, or call the Missouri Department of Insurance, Financial Institutions and Professional Registration at (800) 726-7390.

_____ _____
Date Title Agent

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 7—Title

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.015, 381.022, and 381.042, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 500-7.060 Disclosure of Coverage Limitation **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 566). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008 and the comment period ended at 5:00 p.m. on April 10, 2008. At the public hearing and in written comments, department staff explained the proposed rule, made comments in support of the proposed rule, and suggested changes to the proposed rule. At the public hearing and in written comments, representatives of the Missouri Title Legislative Study Group, Missouri Land Title Association (MLTA), U.S. Title, and First American Title Insurance made comments regarding the rule.

COMMENT #1: Michael T. Malone, on behalf of the Missouri Title Legislative Study Group, commented that section 381.058.3, RSMo, expressly authorizes an insurer to issue closing protection letters, "and shall do so in favor of and upon request by the applicable buyer, lender, or seller in such transaction." The marketplace has interpreted the "upon request by" language to mean that such protection can be "waived" by a party that otherwise qualifies for closing protection. The language in Form T-3 provides for such a "waiver," with additional language that contemplates an "explanation" of coverage or "non-coverage." However, such a "waiver" procedure is not supported in the statutes and there are no requirements to provide an "explanation of closing protection." Requiring an additional "explanation of closing protection" by the use of Form T-3 may put an insurer, agent, or agency in a position of having to make legal conclusions that they may not be qualified to make. In addition, any such verbal "explanations" could potentially alter the coverages and exclusions contained in an actual closing protection letter that do not follow the filed forms. Mr. Malone supplied a modified Form T-3 and requested that the department adopt the Form T-3 as modified.
COMMENT #2: John Coghlan, on behalf of Missouri Land Title Association, commented that section (2) directs title persons to use Form T-3 or a form that substantially comports with the specified form. However, Form T-3 requires compliance with requirements that exceed the statutory authorization and that conflict with the statutes. Form T-3 includes a waiver to be signed by the buyer or seller while section 381.022.6, RSMo, requires only that the title agency or title agent "clearly discloses to the seller, buyer or lender . . . that no title insurer is providing any protection for closing or settlement funds received by the title agency or agent." Nothing in the statute requires a waiver by the buyer, seller, or lender; neither would such a requirement be logical when the statutes prohibit the issuance of a closing protection letter in certain circumstances.

Section 381.022.6, RSMo, prohibits an agency or agent from providing escrow services unless "conducted or performed in contemplation of and in conjunction with the issuance of a title insurance policy or a closing protection letter, or prior to receipt of any funds, the title agency or agent clearly discloses to the seller, buyer or lender involved in such escrow, settlement or closing, that no title insurer is providing any protection for closing or settlement funds received by the title agency or agent."

Section 381.058.3, RSMo, authorizes title insurers to issue closing protection letters "in all transactions where its title insurance policies are issued and where its issuing agent or agency is performing settlement services and shall do so in favor of and upon request by the applicable buyer, lender, or seller in such transaction."

These sections make it clear that there are two (2) generalized scenarios where no closing protection letter will be issued to one (1) or more of the parties to the transaction–one (1) where the insurer cannot do so and one (1) where a party declines coverage. A "waiver" from a person who cannot receive the coverage is nonsensical, will only add more confusion to the receipt of the notice, and may result in a potential loss of rights or protection the person might otherwise have. The waiver from a person who declines coverage may be a sensible safeguard for the title person to obtain, but is not mandated by the statute and may be impossible to obtain prior to the actual closing. Since failure to provide the notice when required is a level 3 violation, coupling the statutorily-required notice with an administratively-created waiver is unreasonable.

The waiver itself is confusing and misleading in its statement that "I understand that no title insurer is providing any protection to me for closing and settlement funds received by it, or its policy issuing agency or agent." This is a blatant misstatement of the law.
COMMENT #3: Andy Arnold, on behalf of the Missouri Title Legislative Study Group, commented that Form T-3 Notice of Closing or Settlement Risk should include a receipt and acknowledgement in lieu of the current "waiver." John Coghlan, on behalf of the Missouri Land Title Association, commented that the current "waiver" exceeds statutory authority.
COMMENT #4: Chris Elliott, on behalf of First American Title Insurance, commented that the "waiver" requirement is misleading if a customer never had a right to a closing protection letter in the first place.
COMMENT #5: Chris Elliott, on behalf of First American Title Insurance, commented that there is a problem with agents explaining rights to consumers and such explanation required by the rule may result in the unauthorized practice of law.
COMMENT #6: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical regarding the Form T-3:

(a) Is this a correct statement: "A Form T-3 may only be issued when the agent or agency cannot issue a CPL?"

(b) If so, why does the Form T-3 contain a "waiver" for the party receiving it? One cannot waive that to which one was never entitled to begin with. And the title agent should not be compelled to give the party legal advice by explaining the effect of the waiver. The form, if it must include anything for the party to sign, should have not more than an acknowledgment of receipt.

(c) Why does the Form T-3 contain any mandatory signature option at all? The statute does not require that the recipient sign anything.

RESPONSE: The director agrees with these comments and has modified Form T-3 Notice of Closing or Settlement Risk, which is incorporated by reference in 20 CSR 500-7.030, accordingly. No changes have been made to this rule in response to these comments.

COMMENT #7: Jim Durham, on behalf of the Missouri Land Title Association, commented that the rule should address the situation where an agent will issue a policy, but may not issue a closing protection letter at that time.

RESPONSE: The director believes the statutes, rule, and form (as modified) adequately address this situation. No changes have been made to the rule or form in response to this comment.

COMMENT #8: Nancy LoRusso, on behalf of U.S. Title, stated that Form T-2 Notice of Availability of Owner's Title Insurance, in connection with this rule, contemplates only the scenario of waiving the Owner's Policy when a Lender's Policy is being issued. Section 381.019.5, RSMo states the title insurer, agency, or agent is not authorized to provide closing or settlement services unless a commitment, binder, title policy, and closing protection letter is issued or written notice given to the affected person that the person's interest is not protected by the title insurer, agent, or agency. Two (2) other scenarios are of concern.

(a) Owner's Policy on a Cash Transaction. Can an Owner's Policy be waived if a commitment is issued but no purchase?

(b) Closing on a Letter Report (Lender requests Letter Report for refinance or 2nd). Lender must do its own closing or order a Lender's Policy?

RESPONSE: The statement proposes a question, but no comment on the rule. The director suggests that questions or requests for no action be submitted to the general counsel for review in the appropriate forum. No changes have been made in response to this statement.

COMMENT #9: Jim Durham, on behalf of the Missouri Land Title Association, commented that a blanket "waiver" may be appropriate in a situation where a mass seller with forty (40) lots, ninety-nine percent (99%) sales closed through the same agent.

RESPONSE: The director agrees with this comment. Nothing in the rule or forms precludes a blanket waiver. No changes have been made in response to this comment.

COMMENT #10: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: If an agent closes a cash transaction and the buyer waives an Owner's Policy after receiving proper notice regarding the availability of an Owner's Policy (Form T-2), is a CPL issued or would Form T-3 Notice of Closing or Settlement Risk be given in accordance with proposed rule 20 CSR 500-7.060 Disclosure of Coverage Limitation?

RESPONSE: The situation described does not appear to be the business of title insurance since no title insurance policy is issued. The director has modified Form T-3 Notice of Closing or Settlement Risk, which is incorporated by reference in 20 CSR 500-7.030, to clarify the form and notice requirements. No changes have been made to this rule in response to this comment.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 7—Title

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.029.3 and 381.042, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 500-7.070 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 566). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008, and the comment period ended at 5:00 p.m. on April 10, 2008. At the public hearing and in written comments, department staff explained the proposed rule, made comments in support of the proposed rule, and suggested changes to the proposed rule. At the public hearing and in written comments, representatives of the Missouri Title Legislative Study Group and Missouri Land Title Association (MLTA) made comments regarding the rule.

COMMENT #1: Michael T. Malone and Andy Arnold, both on behalf of the Missouri Title Legislative Study Group, commented that section 381.029.4, RSMo, excepts "shareholders of publicly traded companies" from the affiliated business reporting requirements. Mr. Malone requested that the exception be included in the rule under subsection (2)(A) in the proposed rule as follows ". . . which the insurer, agency or agent knows to be a producers or associates of producers, except the duty to report shall not include shareholders of record of any publicly traded insurer."

RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has modified section (2) of this rule accordingly.

COMMENT #2: Nicole Hoff, on behalf of the Missouri Land Title Association, requested clarification of the following issue: Should the statutory exception for "shareholders of publicly traded companies" appear in the regulation and/or Form T-5?

RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has modified section (2) of this rule and Form T-5, which is incorporated by reference in 20 CSR 500-7.030, accordingly.

COMMENT #3: Michael T. Malone and Andy Arnold, both on behalf of the Missouri Title Legislative Study Group, commented that section 381.031, RSMo, has a definition of "financial interest." Mr. Malone requested that Form T-5 Affiliated Business Arrangement Report be amended to incorporate the section 381.031, RSMo, definition of "financial interest" as follows: "List all persons with any interest, legal or beneficial, that entitles the holder directly or indirectly to one percent (1%) of the net profits or net worth of the entity in which the interest is held and/or all persons with at least five percent (5%) ownership interest . . ."

RESPONSE: The director agrees with this comment and has modified Form T-5, which is incorporated by reference in 20 CSR 500-7.030, accordingly to clarify the application of financial interest. No changes have been made to this rule in response to this comment.

COMMENT #4: John Coghlan, on behalf of Missouri Land Title Association, commented that Form T-5 requires disclosures not authorized by the statutes, is in conflict with state law, and promotes potential, unintended violation of state law.

Section 381.029.4, RSMo, requires each insurer, agency, or agent who is not a publicly traded corporation to disclose to the Department of Insurance, Financial Institutions and Professional Registration (DIFP) any persons "that have a financial interest" in the title person that the title person "knows or has reason to believe are producers of title insurance business or associates of producers." "Financial interest" is defined in section 381.031.9, RSMo, as "any interest, legal or beneficial, that entitles the holder directly or indirectly to one percent (1%) or more of the net profits or net worth of the entity . . ." Yet, Form T-5 directs the title person to disclose persons "with a financial interest or at least five percent (5%) ownership interest" in the title person and does not exclude publicly traded title persons from the duty to report shareholders. The reference to "five percent (5%) ownership" will almost certainly result in misreporting; certainly it will result in some confusion.

RESPONSE: The director agrees with this comment and has modified Form T-5, which is incorporated by reference in 20 CSR 500-7.030, to clarify any confusion and add the reporting exemption for shareholders of publicly traded companies. No changes have been made to this rule in response to this comment.

COMMENT #5: John Coghlan, on behalf of Missouri Land Title Association, commented that Form T-5 requires all title persons to disclose "a description and dollar amount of each material transaction between" the title person and "an affiliated producer." The only statutory authorization for DIFP to require this disclosure is section 381.029.3, RSMo, which is specifically limited to reports by "title agencies," and does not include title insurers or title agents. In addition, the term "affiliated producer" generates confusion since the statutes define "affiliate" (which includes a person with ten percent (10%) or more voting control), "producer" (someone with a five percent (5%) ownership interest), and "affiliated business" (which includes anyone with a "financial interest," i.e., one percent (1%) share in profits or worth).
RESPONSE: The director agrees with this comment and has modified Form T-5 to clarify reporting requirements. The director has created Forms T-5A and T-5B, which are incorporated by reference in 20 CSR 500-7.030, to distinguish the reporting requirements that apply only to agencies and those that apply to insurers, agencies, and agents. No changes have been made to this rule in response to this comment.

COMMENT #6: Nicole Hoff, on behalf of the Missouri Land Title Association, requested clarification of the following issue: There is a definition in the statutes of "financial interest." Section 381.031, RSMo, refers to financial interest as: "any interest, legal or beneficial, that entitles the holder directly or indirectly to one percent of the net profits or net worth of the entity in which the interest is held . . ." Form T-5 requires a listing of "all persons with a financial interest or at least five percent (5%) ownership interest . . ." On its face that means that you must list parties with one percent (1%) or more interest (more or less). Does the department intend for five percent (5%) or one percent (1%) to be the threshold for reporting?
RESPONSE: The director agrees with this comment and has modified Form T-5, which is incorporated by reference in 20 CSR 500-7.030, to clarify the reporting requirements. No changes have been made to this rule in response to this comment.

COMMENT #7: John Coghlan and Nicole Hoff, both on behalf of Missouri Land Title Association, and Andy Arnold, on behalf of the Missouri Title Legislative Study Group, commented that Form T-5 (and the statute) requires disclosure of "material transactions." However, neither the statute nor the rule defines "material transactions."
RESPONSE: The director agrees with this comment and has added a definition of material transaction to proposed rule 20 CSR 700-7.020 Scope and Definitions. No changes have been made to this rule in response to this comment.

COMMENT #8: Nicole Hoff, on behalf of the Missouri Land Title Association, requested clarification of the following issue: Does the department intend to enforce the reporting requirements to cover "every transaction"? If so, where is the legislative authority to do so?
RESPONSE: The director intends to collect information regarding material transactions which is defined in proposed rule 20 CSR 700-7.020 Scope and Definitions. No changes have been made to this rule in response to this comment.

20 CSR 500-7.070 Affiliated Business Arrangements

(2) Annual Reports.

(A) The Agency Financial Interest Report.

1. Title agencies are required under section 381.029.3, RSMo, to report the agency's owners, the agency's ownership interests in other persons or businesses, and material transactions between the parties. Such report shall be filed with the department by March 31 of each year using The Agency Financial Interest Report (Form T-5A). Title agencies shall update and resubmit Form T-5A within thirty (30) days of any material change to the information submitted regarding the agency's financial interests, parties with financial interests in the agency, or parties with financial interests in the insurer, agency, or agent who are producers or associates of producers.

2. Information related to material transactions collected pursuant to Form T-5A will be treated by the department as a trade secret as defined by section 417.453(4), RSMo, inasmuch as such information possesses economic value by virtue of its confidential status; the same or like information is unavailable through other sources; and insurers have made reasonable efforts to maintain the confidentiality of the data. As such, all information submitted pursuant to Form T-5A, shall be considered confidential communications and immune from requests made under Chapter 610, RSMo, nor shall such information otherwise be made available to the public or unauthorized individuals except in response to a valid court order.

(B) The Affiliated Business Arrangement Report. Title insurers, agencies, and agents are required under section 381.029.4, RSMo, to file reports with the director setting forth the names and addresses of any persons with a financial interest in the insurer, agency, or agent, which the insurer, agency, or agent knows to be producers or associates of producers, except the duty to report shall not include shareholders of record of any publicly-traded insurer. Such report shall be filed with the department by March 31 of each year using The Affiliated Business Arrangement Report (Form T-5B).

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 7—Title

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.038 and 381.042, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 500-7.090 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 567). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008, and the comment period ended at 5:00 p.m. on April 10, 2008. At the public hearing and in written comments, department staff explained the proposed rule, made comments in support of the proposed rule, and suggested changes to the proposed rule. At the public hearing and in written comments, representatives of the Missouri Title Legislative Study Group, Central Mortgage Company, Chicago Title, and Missouri Land Title Association (MLTA) made comments regarding the rule.

COMMENT #1: Michael T. Malone and Andy Arnold, both on behalf of the Missouri Title Legislative Study Group, commented that subsection (2)(b) of section 381.038, RSMo, states that policies are exempt from the forty-five (45)-day issuance requirement where certain costs and fees have not been paid to "the title agent, agency, or insurer." Payments made to a policy issuing agent or agency of the insurer's share of premium ("retention") at transaction settlements are not payments to an insurer. Except in cases where policy premiums and other fees and charges are paid directly to an insurer, through transactions actually completed by an insurer's direct operations, it is critical to us to maintain a distinction in this regard. Mr.

Malone suggested that a subsection (2)(C) be added and subsection (2)(B) be amended as follows:

(2)(B) Commitment, policy, recording costs, and other fees have not been paid to the title agent or agency;

(2)(C) Commitment, policy, recording costs, and other fees have not been paid to the insurer.

COMMENT #2: Burton M. (Buzz) Shepard, on behalf of Chicago Title, suggested that subsection (2)(B) be amended and a subsection (2)(C) added as follows:

(2)(B) Commitment, policy, recording costs, and other fees have not been paid to the title agent or agency;

(2)(C) Commitment, policy, recording costs, and other fees have not been paid to the insurer.

The amendment would separate payment requirements between agents and insurers. Payment of fees to an issuing agent is not the same as payment to an insurer, and an insurer should not be required to issue a policy until it is paid.

RESPONSE AND EXPLANATION OF CHANGE: The director will presume that Mr. Malone was referring to subsection (2)(B) in the proposed rule rather than section 381.038, RSMo, because no such subsection (2)(B) exists in section 381.038, RSMo, and because the quoted language appears in the proposed rule. The director agrees with the clarification except that an agent's failure to remit collected premium to the insurer should not be a permitted reason for delay.

COMMENT #3: Rick Hollenberg, on behalf of Central Mortgage Company, and Wade Nash, on behalf of the Missouri Bankers Association, commented in support of the proposed rule. They opposed the bifurcation of subsection (2)(B) exempting title insurers for non-payment of risk premiums by their own agents. Lenders and homebuyers are consumers of the insurers' products and services through their agents and upon payment are entitled to prompt delivery of such. Title insurers are in a better position to ascertain their agents' counterparty risk than the consuming public. Lenders are under increasing pressures from secondary market investors to deliver final documents in a reasonable timeframe. Penalties and repurchase demands are at all-time highs. The proposed revision would expose financial institutions along with their customers to greater and unnecessary financial risks.

RESPONSE AND EXPLANATION OF CHANGE: The director agrees with Mr. Hollenberg and Mr. Nash and has modified the rule accordingly.

COMMENT #4: Michael T. Malone, on behalf of the Missouri Title Legislative Study Group, and Nancy LoRusso, on behalf of U.S. Title, commented that the proposed requirement in section (4) to provide "notification" of the inability to issue a policy within forty-five (45) days where there has been compliance with the requirements of a commitment imposes an additional requirement that is not supported in the statutory language in section 381.038, RSMo. It is clearly not a "special circumstance" that delays the issuance of a policy, which is the purpose of this rule; it would add expense to the process; and it would actually delay the issuance of the policy, which the statute was written to prevent. There appears to be more than sufficient recourse for an aggrieved party to file a complaint if they believe they have cause according to the law, which we believe is the accepted practice of dealing with alleged non-compliance of any insurance law or regulation. Mr. Malone requested that section (4) be deleted in its entirety.

COMMENT #5: John Coghlan and Nicole Hoff, both on behalf of Missouri Land Title Association, and Burton M. (Buzz) Shepard, on behalf of Chicago Title, commented that section (4) exceeds the statutory authority and imposes an arbitrary and capricious obligation that is unreasonably burdensome.

Section 381.038.3, RSMo, requires that the written policies be issued within forty-five (45) days after the requirements of the commitment have been satisfied, but the legislature recognized that there may be extenuating circumstances that would delay the issuance of the written policy and authorized the Department of Insurance, Financial Institutions and Professional Registration (DIFP) to recognize some frequently occurring circumstances for delay. The proposed rule, in section (4), imposes an additional requirement that the title person notify "the insured lender or buyer, if applicable, if a policy will not be issued within forty-five (45) days after compliance with the requirements of the commitment." The proposed rule imposes duties on the title person that was not contemplated by the statute.

First, the rule imposes an obligation of both omniscience and precognition upon the title person to determine to whom and when notice is necessary.

Second, the rule imposes the obligation without regard to whether the foreseen delay is attributable to a delay excluded by rule as a special circumstance, or any delay, whether or not excusable.

Third, the rule imposes the obligation, and a potential level 2 violation, upon the title person when the cause for the delay may be due to the lender or buyer (e.g., a non-conforming document rejected by the recorder that the lender has not corrected, or a recording cost the lender or buyer has not paid).

Finally, the rule provides no protection or benefit to the lender or buyer while imposing an additional burden, and potential, additional penalty, upon the title person (failure to issue the policy within forty-five (45) days and failure to provide notice).

RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has modified the rule accordingly to delete section (4).

COMMENT #6: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: Agent closes and pays off a prior deed of trust. The prior lender does not file a release, which was required in the commitment. All other requirements are met at closing. The agent does not issue the policy within forty-five (45) days of closing since not all of the requirements have been met (i.e., no release). Is the agent in compliance? If not, why not?

COMMENT #7: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: Agent issues a commitment requiring satisfaction and release of a prior deed of trust. The lender closes the transaction. No release by the prior lender is filed. The agent does not intend to issue a policy until the closing lender advises the agent that a release has been filed. What obligation does the Agent have to search the records for the release? For example, Agent awaits confirmation from the closing lender that the release has been filed and makes no independent search for the same. More than forty-five (45) days after the release is filed, the closing lender notifies the Agent that the release was, in fact, filed. Is the agent in compliance if the policy is issued within forty-five (45) days of receiving such notice?

RESPONSE: The statement proposes a question, but no comment on the rule. The director suggests that questions or requests for no action be submitted to the general counsel for review in the appropriate forum. No changes have been made in response to this statement.

COMMENT #8: Harry Gallagher, on behalf of the Mortgage Bankers Association of Missouri, commented in support of the rule as proposed by the department. The changes suggested by other individuals would create penalties for lenders for failure to deliver documents on time.

RESPONSE: The director disagrees with this comment, because the department has no authority to impose penalties on lenders. No changes have been made to the rule as a result of this comment.

COMMENT #9: David Cox, on behalf of the Department of Insurance, Financial Institutions and Professional Registration, commented that the agent's delay in remitting collected premium to the insurer is an inappropriate reason to delay issuance of a policy

beyond four (4) days. To do so would negate the purpose of the rule because an agent could avoid compliance with the forty-five (45) days by merely delaying his timely payment of premium to the insurer. Mr. Cox pointed out that even if the premium is never remitted by the agent to the insurer, the insurer is bound by the actions of its agents, including the duty to issue the policy for which the policyholder has paid a premium. Mr. Cox suggested the following clarification to subsection (2)(B):

Commitment, policy, recording costs, and other fees have not been paid to the title agent, agency, or insurer if the policy is to be issued directly by the insurer.

RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has modified the rule accordingly by adding subsection (2)(C).

20 CSR 500-7.090 Special Circumstances for Policy Delay

(2) A title policy must be issued within forty-five (45) days after meeting the requirements of the commitment, except in the following circumstances:

(B) Commitment, policy, recording costs, and other fees have not been paid to the title agent or agency; or

(C) Commitment, policy, recording costs, and other fees have not been paid to the insurer if the policy is to be issued directly by the insurer.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 7—Title

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.042 and 381.058, RSMo Supp. 2007, the director amends a rule as follows:

20 CSR 500-7.100 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 3, 2008 (33 MoReg 567–570). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008, and the comment period ended at 5:00 p.m. on April 10, 2008. At the public hearing and in written comments, department staff explained the proposed amendment, made comments in support of the proposed amendment, and suggested changes to the proposed amendment. At the public hearing and in written comments, representatives of Drake Land Title and Missouri Land Title Association (MLTA) made comments regarding the amendment.

COMMENT #1: Jim Drake, on behalf of Drake Land Title, and Nicole Hoff, on behalf of the Missouri Land Title Association, questioned whether the department intended to delete section (3) because such a deletion does not appear in the sentence following the rule title.

RESPONSE: 20 CSR 500-7.100 section (3) and Appendix A were deleted from the proposed amendment to 20 CSR 500-7.100. The requirement that policies, standard form endorsements, or simultaneous issue instruments list the "premium collected for the issuance of the policy as calculated from the filed risk rate for the policy" in 20 CSR 500-7.130 requires the same information that was previously required by 20 CSR 500-7.100 paragraph (3)(B)2. The director agrees that the description section of this amendment should have included that section (3) is being deleted.

COMMENT #2: Comments #1–4 in 20 CSR 500-7.020 expressed concerns regarding the definitions of "charge" and "risk rate."

RESPONSE AND EXPLANATION OF CHANGE: In accordance with comments received on rule 20 CSR 500-7.020 the director is reinstating the definitions of "charge" and "risk rate" in section (1) of this rule.

20 CSR 500-7.100 Rate Schedules

(1) Definitions. As used in this regulation, the following terms shall mean:

(A) Charge means any fee charged to the insured, or paid for the benefit of the insured, for the performance of title-related services other than the risk rate charged for title insurance. This charge shall include, but not be limited to, fees for abstracts, title search and examination and handling of escrows, settlements, or closings; and

(B) Risk rate means the total consideration paid by or on behalf of the insured for a title insurance policy. Risk rate shall include the title insurance agent's commission but shall not include any charge as defined in subsection (1)(A).

(2) Filing of Rates.

(A) Title Insurance Rates. Every title insurer licensed in Missouri shall file with the director as required by section 381.181, RSMo 1994, a completed title insurance rate reporting form for the risk rates it proposes to use in each county of this state and each city not within a county in this state. Rate schedules filed under this rule must comply with section 381.171, RSMo 1994. The effective date for these rates shall be no earlier than the thirtieth day following the receipt of the form by the director.

(B) Filing Form. The Uniform Premium (Risk Rate) Report form (Form T-7) sets forth a risk rate reporting format to be utilized by title insurers in this state for the respective types of title insurance contracts. When computing insurance premiums on a fractional thousand of insurance (except as to minimum premiums), multiply those fractional thousands by the rate per thousand applicable, considering any fraction of one hundred dollars ($100) as a full one hundred dollars ($100). The form can be accessed at the department's website at www.insurance.mo.gov or at the department offices.

(C) Closing Protection Rates. Every title insurer shall file with the director rates for closing protection letters applicable to residential real estate transactions. Rates for closing protection letters in residential real estate transactions shall meet the following standards:

1. Rates shall not be excessive or inadequate;

2. Rates are excessive if, in the aggregate, they are likely to produce a long run profit that is unreasonably high in relation to the risk of the business or if expenses are unreasonably high in relation to the services rendered;

3. Rates are inadequate if they are clearly insufficient, together with investment income attributable to them, to sustain projected losses and expenses or if continued use of such rates will have the effect of substantially lessening competition or the effect of tending to create a monopoly;

4. Rate filing standards apply separately to closing protection letters issued under section 381.058.3(2)–(3), RSMo;

5. The rate filing shall document the anticipated losses, expenses, and profits underlying the rates and provide appropriate actuarial support for the data, methods, and assumptions;

6. Expected losses for rates do not include losses that result in a title insurance claim; and

7. Rates shall reflect expected fiduciary practices under current law and losses incurred in another state or under prior fiduciary practices may only be used if adjusted to reflect prospective Missouri fiduciary practices.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 7—Title

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.042 and 381.085, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 500-7.130 Insurance and Closing Protection Form Filings **is adopted**.

A notice of the proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 570–571). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008, and the comment period ended at 5:00 p.m. on April 10, 2008. At the public hearing and in written comments, department staff explained the proposed rule, made comments in support of the proposed rule, and suggested changes to the proposed rule. At the public hearing and in written comments, representatives of the Missouri Title Legislative Study Group and Missouri Land Title Association (MLTA) made comments regarding the rule.

COMMENT #1: Michael T. Malone, on behalf of the Missouri Title Legislative Study Group, commented that subsection (1)(B) requires policies and endorsements to contain disclosure of premium calculated from the filed risk rate. However, prior rule 20 CSR 500-7.100(3)(B)1. and 2. require disclosure of both the total amount to be paid for the issuance of the policy and the risk rate for the policy. Mr. Malone requested confirmation that the risk rate ("premium") is the only amount required to be disclosed on policies and endorsements.

RESPONSE: 20 CSR 500-7.100(3) and Appendix A were deleted in the proposed amendment to 20 CSR 500-7.100 and the premium disclosure requirement was moved to 20 CSR 500-7.130(1)(B). The requirement that policies, standard form endorsements, or simultaneous issue instruments list the "premium collected for the issuance of the policy as calculated from the filed risk rate for the policy," requires the same information that was previously required by 20 CSR 500-7.100(3)(B)2. No changes were made to the rule in response to this comment.

COMMENT #2: Nicole Hoff, on behalf of the Missouri Land Title Association, submitted the following hypothetical: A seller chooses to forego a closing protection letter. May the title agent/agency/insurer (who was in a position to issue a closing protection letter and would have otherwise been required to do so) accept a waiver and close without issuing a closing protection letter?

RESPONSE: The director has modified Form T-3 Notice of Closing or Settlement Risk to address these concerns. No changes were made to the rule in response to this comment.

COMMENT #3: Nicole Hoff, on behalf of the Missouri Land Title Association, submitted the following hypothetical: Title Agency A does a large number of transactions with Builder. Builder sells any number of completed single-family homes in a given year. Builder does not wish to incur the cost of a closing protection letter on any of its transactions with Title Agency A. May Title Agency A and its underwriter(s) accept a "blanket waiver" of the right to a closing protection letter on any and all future transactions from Builder and proceed to close all of Builder's future transactions without issuing any closing protection letters on behalf of Builder? If so, Ms. Hoff offered two documents marked "Exhibit A" (blanket waiver) and "Exhibit B" (single transaction waiver).

RESPONSE: Nothing in the rule or forms precludes a blanket waiver. No changes have been made in response to this comment. The statement regarding the proposed Exhibit A and Exhibit B proposes a question but no comment on the rule. The director suggests that questions or requests for no action be submitted to the general counsel for review in the appropriate forum. No changes have been made in response to this statement.

COMMENT #4: Nicole Hoff, on behalf of the Missouri Land Title Association, requested clarification of the following issue regarding St. Louis Split Closings: There is a difference of opinion as to whether, in a St. Louis split closing, the title company representing the buyer should or can issue a closing protection letter (CPL) to the seller. Those who issue the CPL (or obtain a waiver) take the position that after the deed has been delivered by the seller and all of the buyer's closing funds have been paid, the transaction is closed and the buyer's title company is holding the seller's money at that point in time making it the escrow agent for the seller. There may be other justifications for the conclusion that the buyer's title company is serving as escrow agent for the seller. Others take the position that it is inappropriate for the buyer's title company to issue a CPL to a party not closing with them, and the buyer's funds do not convert to seller's funds until they are delivered to the seller or seller's agent so that buyer's title company was never the escrow agent for the seller.

(a) Is the buyer's title company in compliance if it does not issue a CPL to the seller or obtain a waiver?

(b) If so, should the buyer's title company give the seller a notice of unprotected closing (Form T-3) instead to be in compliance?

COMMENT #5: Nicole Hoff, on behalf of the Missouri Land Title Association, requested clarification of the following issue regarding St. Louis Split Closings: The buyer's title insurance company is issuing policies on Underwriter A. The seller's title insurance company is an agent of Underwriter B and not an agent of Underwriter A. Is the seller's title insurance company authorized to issue a seller closing protection letter on Underwriter B (assuming B agrees) even though Underwriter B is not issuing any policy in connection with the transaction? Provided Underwriter B cannot give protection to the seller, does the Form T-3 need to come from Underwriter A's (who is insuring the new owner and lender) agent or Underwriter B's agent?

COMMENT #6: Nicole Hoff, on behalf of the Missouri Land Title Association, requested clarification of the following issue: A is an agent for X Title Insurer. A is issuing a policy on X. B is an Agent for Y Title Insurer. B is not an agent for X Title Insurer. A arranges with B for B to do a "courtesy closing" or "witness closing"—that is, B will receive original documents by mail or electronically, and B will arrange for the parties to execute in B's office, but B will not handle any funds. B will return executed documents to A by mail or overnight delivery.

(a) Is B required to give a Form T-3 Notice of Closing or Settlement Risk even though it is not handling funds?

(b) And if so, can B give the Form T-3 notice at the time the parties arrive to sign, even though that is after B receives documents?

COMMENT #7: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: A is an agent for X Title Insurer. A is issuing a policy on X. B is also an agent for X Title Insurer. A arranges with B for B to do a "courtesy closing" or "witness closing"—that is, B will receive original documents by mail or electronically, and B will arrange for the parties to execute in B's office, but B will not handle any funds. B will return executed documents to A by mail or overnight delivery. Is B in compliance if B does not issue closing protection letters?

COMMENT #8: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: Agent issues a commitment. Bank (or realtor or attorney) closes the sales transaction and disburses all funds but sends the deed and deed of trust to agent for recording along with a check payable to agent for recording fees (and title charges).

(a) Is the agent conducting "escrow business" by accepting those documents and funds, and must is issue CPL's?

(b) What if the check for recording fees is payable directly to the recorder of deeds?

(c) What if agent advances recording fees and bills for reimbursement?

(d) Does it make a difference if it is a refinance transaction or a second mortgage loan where no deed is involved? If it is a refinance, it does not appear to create an escrow but (in connection with a resale), under the definition of escrow agent, having the lender (one party) send a document to another party (buyer's deed) creates a question.

COMMENT #9: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: If an Agent at a lender's request closes on a "Letter Report," is a CPL issued since the "Letter Report" is not an insured product? Or would a Form T-3 Notice of Closing or Settlement Risk be given in accordance with proposed rule 20 CSR 500-7.060 Disclosure of Coverage Limitation?

COMMENT #10: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: Agent is closing a sale of an undeveloped lot in a subdivision restricted to single family residences. Agent is issuing an owner's policy and a loan policy. Agent does not issue a CPL. Is Agent in compliance since the sale is not a "residential transaction"?

COMMENT #11: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical:

(a) Agent is closing a construction loan on an undeveloped lot in a subdivision restricted to single family residences. Agent is using a loan policy. Agent does not issue a CPL. Is agent in compliance since the sale is not a "residential transaction"?

(b) Does a subsequent sale of the lot become a "residential transaction" at any point in the construction process prior to completion? Fifty percent (50%) complete? Ninety percent (90%) complete?

COMMENT #12: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: Agent is closing the sale of a one hundred (100)-acre farm which includes a one-to-four (1–4) family dwelling. Agent is issuing title insurance policies. Agent does not issue a CPL because the land is principally for agricultural purposes.

(a) Is Agent in compliance since the sale is not a "residential transaction"?

(b) Is there an acreage content that can be relied upon as removing the transaction from the definition of "residential transaction"? (e.g., ten (10) acres with a house is residential, while eleven (11) acres is not; twenty-five (25) acres with a house is not, but twenty-four (24) acres is)

COMMENT #13: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: A shopping center developer is acquiring multiple parcels, all of which are improved by single family residences currently occupied by the sellers, which he will raze for a strip mall. Agent is closing all those transactions. Agent will issue title insurance policies. Agent does not issue a CPL because the improvements are no longer "designed principally for occupancy" and the "transaction involves real estate designed for business [or] commercial . . . purposes." Is agent in compliance?

RESPONSE: The statements propose questions but no comments on the rule. The director suggests that questions or requests for no action be submitted to the general counsel for review in the appropriate forum. No changes have been made in response to these statements.

COMMENT #14: Nicole Hoff, on behalf of the Missouri Land Title Association, proposed the following hypothetical: Agent does not publicly display the filed rate for CPLs from each of its underwriters in each of its offices. Is agent in compliance with section 381.201, RSMo, since the CPL charge is not a premium?

section 381.201.3, RSMo, states:

> Copies of the schedules of premiums which are required to be filed with the director under the provisions of sections 381.011 to 381.241, showing their effective date or dates, shall be kept at all times available to the public and prominently displayed in a public place in each office of a title insurer, title agent, or agency in the county to which such rates apply while such rates are effective.

RESPONSE: While it may be a useful business practice, given the price disclosures mandated under 20 CSR 500-7.050, no statute or rule requires that agents also display Closing Protection Letter rates. No changes have been made in response to this statement.

COMMENT #15: Harry Gallagher, on behalf of the Mortgage Bankers Association of Missouri, and Rick Hollenberg, on behalf of Central Mortgage Company, commented in support of the closing protection letters, as proposed by the department (Form T-8, Form T-8alt, Form T-9, and Form T-9alt). The CPLs were thoroughly discussed by all parties in the preparation of the 2007 legislation (SB 66). Testimony before the legislative committees in 2007 strongly supported the need for this requirement. The CPLs provide valuable protection for consumers and all of the other parties to a real estate transaction. Further, Mr. Hollenburg commented that without the ability of the parties to obtain these assurances from the underwriter, the integrity of the transaction is compromised and the responsibility of diligent oversight by the insurer of their agent is diminished. The risk of loss from negligence or willful wrongdoing is transferred to the consuming parties possessing the least control over the agents' level of performance.

RESPONSE: The director agrees with this comment, and, accordingly, no changes have been made to the rule or forms in response to this comment.

COMMENT #16: David Cox, on behalf of the department, commented that both Forms T-8 and T-9 provide for a five (5)-million dollar limit on loss indemnification. This provision does not appear to be consistent with 381.058.3(1), RSMo, which requires that closing protection letters indemnify ". . .against loss not to exceed the amount of the settlement funds. . ."

RESPONSE: The director agrees with this comment but has not made any changes in response. This issue was negotiated with the industry.

COMMENT #17: David Cox, on behalf of the department, commented that insured closing letters issued under sections 381.400 to 381.405, RSMo, should be exempt from the rule in certain circumstances. These circumstances are (a) when issued in addition to a closing protection letter that satisfies the requirements of section 381.022.5 or 381.058, RSMo, or (b) when no closing protection letter is required by law to be issued. This preserves the protections intended under SB 66 while exempting insured closing letters that are not relevant to the rule. He suggests the following changes to section (4):

> Insured closing letters issued pursuant to sections 381.400 to 381.405, RSMo, are not closing protection letters for purposes of this rule under the following circumstances: (a) when issued in addition to a closing protection letter that satisfies the requirements of section 381.022.5 or 381.058, RSMo, or (b) when no closing protection letter is required by law to be issued. Such insured closing letters shall not be used to satisfy the requirements of sections 381.022.5 or 381.058, RSMo. Such insured closing letters are not required to be filed with the director under section 381.085,

RSMo, unless a fee is charged for the insured closing letter.
RESPONSE: The director disagrees with this comment, and, accordingly, no changes have been made to the rule or forms in response to this comment. The language of section (4) was negotiated with the title insurance industry prior to filing with the secretary of state.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 7—Title

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and section 381.042, RSMo Supp. 2007, the director amends a rule as follows:

20 CSR 500-7.200 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 3, 2008 (33 MoReg 571–575). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008, and the comment period ended at 5:00 p.m. on April 10, 2008. At the public hearing and in written comments, department staff explained the proposed amendment, made comments in support of the proposed amendment, and suggested changes to the proposed amendment. At the public hearing and in written comments, representatives of the Missouri Title Legislative Study Group, Missouri Land Title Association (MLTA), Mortgage Bankers Association of Missouri, Central Mortgage Company, Missouri Bankers Association, U.S. Title, First American Title Insurance, Bollinger County Abstract & Title Co., Inc., and The Title Place made comments regarding the amendment.

COMMENT #1: Michael T. Malone, on behalf of the Missouri Title Legislative Study Group, suggested that Form T-10 be modified to remove the policy number blank, because this form is necessarily completed during the search and exam process, and it is not possible to assign a policy number at the time it is prepared.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment in part but has eliminated this form and filing requirement in response to other comments.

COMMENT #2: Nicole Hoff, on behalf of the Missouri Land Title Association, questioned the purpose of Form T-10 and Form T-11 and their benefit to the public. Ms. Hoff questioned whether Form T-10 and Form T-11 are necessary and asked if the burden to the industry outweighed the benefit to the public or anyone else.
RESPONSE AND EXPLANATION OF CHANGE: The information required by these forms is available elsewhere to department investigators and examiners. The director has eliminated these forms and filing requirements in response to other comments.

COMMENT #3: Nicole Hoff and John Coghlan, both on behalf of the Missouri Land Title Association, questioned the statutory authority for Form T-10 and Form T-11.
RESPONSE AND EXPLANATION OF CHANGE: Form T-10 and Form T-11 originally appeared in the rule as Appendix A and B, respectively. The statutory authority for the rule is reflected in the rule as published in the *Code of State Regulations* and in the proposed amendment as published in the *Missouri Register*. The statutes cited include sections 374.045, 381.031, and 381.071, RSMo. The information required by these forms is available elsewhere to department investigators and examiners. The director has eliminated these forms and filing requirements.

COMMENT #4: Nicole Hoff, on behalf of the Missouri Land Title Association, commented that if the Form T-10 and Form T-11 must be used, is the following a correct interpretation/application of the Form T-10 and Form T-11 requirements:

(a) Agent completes a Form T-11 for four (4) counties in which it either always searches from a registered plant or purchases a search from the same company with a registered plant. In all other counties, Agent hires a Third-Party Searcher. For any counties other than the four (4) covered by the Form T-11, agent secures a Certificate of Third-Party Searcher (which it also obtains in the counties where it always purchases its searches from the same registered plant owner).

(b) If the agent deviates from the practice set for in its Form T-11 in any of the four (4) counties covered by the Form T-11 (for example, Agent elects to come over and search himself at the plant instead of ordering a search as set forth in the Form T-11), then Agent needs to complete a Form T-10 and place it in the title file.

(c) Agent is not required to secure a Form T-10 from each Third-Party Searcher in each county outside the four (4) for which it did a Form T-11 so long as Agent has the Third-Party Searcher's compliance certificate?

If these are not correct, what is the correct interpretation/application?
COMMENT #5: Nicole Hoff, on behalf of the Missouri Land Title Association, inquired as follows: Does the statute mean that an abstractor (or other independent searcher) must be licensed as an insurance agent even if he/she does not engage in the business of title insurance otherwise (assuming that "searching the records" is not automatically the business of title insurance) when the search is ordered for purposes of issuing a title insurance policy? And, does the searcher have to verify with each order what use will be made of the search results?
RESPONSE: The statement proposes a question but no comment on the rule. The director suggests that questions or requests for no action be submitted to the general counsel for review in the appropriate forum. No changes have been made in response to this statement.

COMMENT #6: Nicole Hoff, on behalf of the Missouri Land Title Association, provided exhibits marked "C" and "D" as attachments to Exhibit B, as examples of Certificates of Compliance for its Third-Party Searchers. Is either form in compliance with the law? If not, why not?
RESPONSE: So long as the proof of the third party's compliance and agent's or insurer's right to access and copy records follows the requirements set out in section 381.115, RSMo, such proof is acceptable to the department. No changes have been made to the rule in response to this comment.

COMMENT #7: An anonymous letter inquired whether the Form T-10 must be kept as a paper document in each file, or if the information may be stored electronically and produced in paper form upon request. The inquiring company desires to be a "green" company and move toward a paperless environment.
COMMENT #8: An anonymous letter inquired whether it is the department's intent to have a Form T-10 for every update of title. That process does run through an examiner, but often the only item changed is the effective date of the title commitment. It is a check to make sure no additional documents have been filed of public record, and if they have, they are added to the title commitment. Form T-10 requires the title insurance policy number. Please confirm whether a Form T-10 is required for updates of title, and if so, which Form T-10 should have the title insurance policy number; the initial examination, the final update examination, or some combination?

COMMENT #9: An anonymous letter inquired if a Form T-10 is required for a file that does not close and therefore a title insurance policy is never issued. What about an information report or foreclosure commitment where a title insurance policy will never be issued?
COMMENT #10: Donnia Mayfield, on behalf of Bollinger County Abstract & Title Co., Inc., commented on Form T-10 and Form T-11. Ms. Mayfield supports the forms and wants the department to retain those forms. Without these forms, the department and/or underwriter would have difficulty determining where and how the search was conducted. Further, Ms. Mayfield commented that information requested in deleted Appendix A, items 5 and 6, were omitted from Form T-10, and Ms. Mayfield suggested that those items be reincorporated into Form T-10.
COMMENT #11: Chris Elliott, on behalf of First American Title, commented that a conflict presently exists in the marketplace. People do not know if they have the third-party search write the certificate of compliance, which you are supposed to be able to rely on for three (3) years, and also have them send a Form T-11. Mr. Elliott sells search packages and does not want to be compelled to produce a Form T-11 on every search package he does, if the certificate of compliance satisfies the requirement that he is in compliance with the law.
COMMENT #12: Nancy Good, on behalf of The Title Place in Joplin, Missouri, commented that Form T-10 and Form T-11 create unnecessary paperwork, and she would like to see them eliminated from the amendment.
RESPONSE AND EXPLANATION OF CHANGE: The information required by these forms is available elsewhere to department investigators and examiners. The director has eliminated these forms and filing requirements in response to other comments.

COMMENT #13: Nancy LoRusso, on behalf of U.S. Title, commented that Form T-10 and Form T-11 should be eliminated because the department has no statutory authority to enforce the forms; they provide no protection to consumers and are cumbersome for agencies to complete.
RESPONSE: The director disagrees that the forms provide no protection to consumers. However, the information required by these forms is available elsewhere to department investigators and examiners, making the forms duplicative. The director has eliminated these forms and filing requirements in response to other comments.

COMMENT #14: Nicole Hoff, on behalf of the Missouri Land Title Association, questioned why the Form T-11 and Form T-12 require an examiner's signature when an examiner's signature wasn't previously required by deleted Appendices B and C. The new forms should be exactly like the deleted appendices.
RESPONSE AND EXPLANATION OF CHANGE: The information required by Form T-11 is available elsewhere to department investigators and examiners. The director has eliminated this form and filing requirement in response to other comments. The director has modified Form T-12, which is incorporated by reference in 20 CSR 500-7.030, to incorporate Ms. Hoff's suggestion.

20 CSR 500-7.200 Standards for Policy Issuance

(3) Documentation.

(C) The director shall maintain a Missouri title plant registry. Any entities which can be defined as a title plant pursuant to section 381.031(22), RSMo Cum. Supp. 1989, shall annually file with the director a registration statement in a Title Plant Registration form (Form T-12), or any form that substantially comports with the specified form. No filing fee is mandated. Form T-12 can be accessed at the department's website at www.insurance.mo.gov or at the department offices.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 8—Title Agencies and Title Agents

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.042 and 381.115, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 700-8.005 Scope and Definitions **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 575). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008 and the comment period ended at 5:00 p.m. on April 10, 2008. No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 8—Title Agencies and Title Agents

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.042 and 381.115, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 700-8.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 576–577). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008 and the comment period ended at 5:00 p.m. on April 10, 2008. Department staff explained the proposed rule, made comments in support of the proposed rule, and suggested changes to the proposed rule.

COMMENT #1: Matt Barton, on behalf of the department, commented that subsection (1)(C) should be amended to delete any reference to Form T-AB and replaced with references to Form T-5.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and modified the rule accordingly.

20 CSR 700-8.100 Applications for License

(1) Application Forms. The following forms have been adopted and approved for filing with the department:

(C) The report of agency's owners, any ownership interests in other persons or businesses, and all material transactions between the parties under section 381.029.3, RSMo (Form T-5), or any form which substantially comports with the specified form.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 8—Title Agencies and Title Agents

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.042 and 381.115, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 700-8.150 Examination Requirements **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 577). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008 and the comment period ended at 5:00 p.m. on April 10, 2008. No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 8—Title Agencies and Title Agents

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo 2000 and sections 381.042 and 381.115, RSMo Supp. 2007, the director adopts a rule as follows:

20 CSR 700-8.160 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 3, 2008 (33 MoReg 577–578). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on April 10, 2008, and the comment period ended at 5:00 p.m. on April 10, 2008. At the public hearing and in written comments, department staff explained the proposed rule, made comments in support of the proposed rule, and suggested changes to the proposed rule. At the public hearing and in written comments, representatives of the Missouri Title Legislative Study Group, Missouri Land Title Association (MLTA), U.S.Title, First American Title Insurance, and Farmers Title Insurance made comments regarding the rule or amendment.

COMMENT #1: Michael T. Malone, on behalf of the Missouri Title Legislative Study Group, and Nicole Hoff, on behalf of the Missouri Land Title Association, commented that the proposed rule does not conform to the language in section 381.118.2, RSMo. Mr. Malone commented that the legislature intended that holders of producer licenses in title insurance, which is not a "major" line of insurance, be required to obtain eight (8) hours of continuing education "during each two (2) years" beginning January 1, 2008. As currently written, the rule would require eight (8) hours of continuing education during each two (2)-year "licensure" period. This addition is not supported by the statutory language.
RESPONSE: The director disagrees with this comment. Section 381.118.2, RSMo, states that the "*initial* such two (2)-year period shall begin January 1, 2008." (emphasis added). Subsequent two (2)-year periods can begin on January 2, 2008, and January 3, 2008, and so on. The director has concluded this section requires eight (8) hours of continuing education in the two (2) years immediately preceding license renewal. No changes have been made to the rule as a result of this comment.

COMMENT #2: Nicole Hoff, on behalf of the Missouri Land Title Association, commented that there is a great deal of confusion in regard to the number of required hours for the two (2)-year period starting January 1, 2010. Ms. Hoff suggested that a title agent should be required to obtain sixteen (16) hours of approved continuing education (at any time) between January 1, 2008 and December 31, 2012, and eight (8) hours in each two (2)-year period.
RESPONSE AND EXPLANATION OF CHANGE: The director disagrees with this comment, but recognizes that the proposed language could be better clarified. The director has modified the rule to clarify how the two (2)-year continuing education (CE) periods apply.

COMMENT #3: John Coghlan, on behalf of the Missouri Land Title Association, Andy Arnold, on behalf of the Missouri Title Legislative Study Group, and Jim Durham expressed confusion on how the two (2)-year CE periods apply.
RESPONSE AND EXPLANATION OF CHANGE: The director has modified the rule to clarify how the two (2)-year CE periods apply.

COMMENT #4: David Townsend, on behalf of Farmers Title Insurance, commented that "section (1) Title Agent." should be replaced with "section (1) Title Insurance Producer."
RESPONSE: The director disagrees with this comment. The language proposed comports with the language used in the authorizing statute that refers to title agents, not title insurance producers.

COMMENT #5: Chris Elliott, on behalf of First American, suggested the director issue a bulletin to clarify this rule.
RESPONSE AND EXPLANATION OF CHANGE: The director disagrees with this comment, however, the director has modified the rule to clarify how the two (2)-year CE periods apply.

20 CSR 700-8.160 Continuing Education

(3) Continuing education required by this rule must be completed before the director will approve any license application or renewal filed with the department on or after January 1, 2010.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 345.051, RSMo 2000 and sections 345.015, 345.022, 345.030, 345.045, and 345.055, RSMo Supp. 2007, the board amends a rule as follows:

20 CSR 2150-4.060 Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2008 (33 MoReg 923–925). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 345.065, RSMo 2000 and sections 345.030 and 345.050, RSMo Supp. 2007, the board amends a rule as follows:

20 CSR 2150-4.080 Ethical Standards **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2008 (33 MoReg 926–927). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2245—Real Estate Appraisers
Chapter 3—Applications for Certification and Licensure

ORDER OF RULEMAKING

By the authority vested in the Real Estate Appraisers Commission under section 339.509, RSMo 2000 and sections 339.515 and 339.517, RSMo Supp. 2007, the board amends a rule as follows:

20 CSR 2245-3.010 Applications for Certification and Licensure **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2008 (33 MoReg 927). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2245—Real Estate Appraisers
Chapter 6—Educational Requirements

ORDER OF RULEMAKING

By the authority vested in the Real Estate Appraisers Commission under sections 339.509.3 and 339.509.4, RSMo 2000, the board amends a rule as follows:

20 CSR 2245-6.040 Case Study Courses **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2008 (33 MoReg 927–928). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2245—Real Estate Appraisers
Chapter 8—Continuing Education

ORDER OF RULEMAKING

By the authority vested in the Real Estate Appraisers Commission under sections 339.509 and 339.530, RSMo 2000, the board amends a rule as follows:

20 CSR 2245-8.010 Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2008 (33 MoReg 928). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2245—Real Estate Appraisers
Chapter 8—Continuing Education

ORDER OF RULEMAKING

By the authority vested in the Real Estate Appraisers Commission under sections 339.509 and 339.530, RSMo 2000, the board amends a rule as follows:

20 CSR 2245-8.030 Instructor Approval **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2008 (33 MoReg 928). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards

ORDER OF RULEMAKING

By the authority vested in the Missouri Veterinary Medical Board under section 340.210, RSMo 2000 and section 340.200, RSMo Supp. 2007, the board amends a rule as follows:

20 CSR 2270-4.031 Minimum Standards for Practice Techniques **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2008 (33 MoReg 929). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards

ORDER OF RULEMAKING

By the authority vested in the Missouri Veterinary Medical Board under sections 340.210, 340.264, and 340.284, RSMo 2000, the board amends a rule as follows:

20 CSR 2270-4.041 Minimum Standards for Medical Records **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2008 (33 MoReg 929). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.