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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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SECRETARY OF STATE

ROBIN CARNAHAN

Administrative Rules Division

James C. Kirkpatrick State Information Center
600 W. Main
Jefferson City, MO 65101
(573) 751-4015

DIRECTOR

WAYLENE W. HILES

•

EDITORS

CURTIS W. TREAT

SALLY L. REID

ASSOCIATE EDITOR

SARAH JORGENSEN

•

PUBLICATION TECHNICIAN

JACQUELINE D. WHITE

•

ADMINISTRATIVE ASSISTANT

LUKE RIEKE

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

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

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

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

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

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

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

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 7—Water Quality**

EMERGENCY AMENDMENT

10 CSR 20-7.031 Water Quality Standards. The department's Water Protection Program is filing this revision to ensure that state water quality standards (WQS) are functionally equivalent to federal standards and that improve the clarity, specificity, and effectiveness of the standards.

PURPOSE: This emergency amendment allows the state to modify the water quality criteria for bacteria in Table A of the *Water Quality Standards (WQS)*.

EMERGENCY STATEMENT: This emergency amendment provides immediate authority to the Department of Natural Resources to use an alternative numeric criterion for *E. coli* bacteria in waters of the state that have a Whole Body Contact Recreation (WBCR) Category B designated use. The present numeric criteria of five hundred forty-eight (548) colony forming units (cfu) of *Escherichia coli* (*E. coli*) per one hundred milliliters (100 ml) was adopted from earlier epidemiological studies that have since been determined inadequate to support any standard above two hundred six (206) colony forming units (cfu) per one hundred milliliters (100 ml) of water. EPA is objecting to any actions, which have included water quality assessments or permits

*based on a standard greater than 206 cfu/100 ml. EPA's objection to the state's use of the existing standard is expressed in a letter dated August 15, 2008, relative to a draft wastewater discharge permit written by the state using the existing standard. In their letter, EPA issues a general objection on the basis that the draft permit ". . . does not set forth acceptable final effluent limits for E. coli consistent with 40 CFR 122.44(d)." In another letter, dated September 24, 2008, EPA states that the state of Missouri makes an error in their water quality assessments performed during the preparation of the state's impaired waters list. EPA explains that "Missouri assessed numerous waters that are designated for Whole Body Contact Recreation—Category B against the E. coli criterion of 548 cfu/100 ml. This criterion has not been approved by EPA and is, therefore, not effective for Clean Water Act (CWA) purposes." Because of these objections, the state is unable to issue permits or complete water quality assessments in accordance with current state rules. Therefore, the department is unable to protect, through permits and water quality assessments, the WBCR Category B Designated Use in the waters of the state. A greater risk to public health exists when permits are not written promptly to require adequate pollution control and when assessments are delayed in identifying waters in exceeding water quality criteria so that appropriate protection or restoration of water quality can be initiated. Missouri currently has approximately twenty thousand (20,000) miles of streams that have the WBCR Category B designated use assigned. The department is proposing to adopt the numeric criteria of 206 cfu/100 ml to ensure adequate protection of the citizens of the state who may recreate in these streams. This standard was deemed acceptable following a report issued by EPA in February 2004. The report states—"Based on a review of the studies used in the derivation of EPA's section 304(a) criteria for bacteria, EPA recommends states and authorized tribes select a risk level for fresh waters between 0.8 and 1.0 percent." The standard of 206 cfu/100 ml equates to the risk level of one percent (1%). EPA has given verbal assurance that they would accept this standard. Missouri is also pursuing a proposed rule to change the standard to 206 cfu/100 ml. In the interim, the alternative numeric criteria is immediately needed to protect public health and to avoid objections from EPA that would cause significant delays on permits and water quality assessments. The scope of this emergency amendment is limited to the circumstances creating the emergency rulemaking amendment and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Clean Water Commission believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed on November 12, 2008, is effective November 22, 2008, and expires May 20, 2009.*

Table A—Criteria for Designated Uses

WBC = Whole Body Contact Recreation
 SCR = Secondary Contact Recreation
 AQL = Protection of Aquatic Life
 DWS = Drinking Water Supply
 LWW = Livestock and Wildlife Watering
 GRW = Groundwater

Pollutant ($\mu\text{g/L}$)	AQL
Chlorine (total residual)	
cold-water	2
warm-water chronic—	10
acute—	19
Cyanide (amenable to chlorination)	
chronic—	5
acute—	22
Hydrogen sulfide (un-ionized)	2

Pollutant (mg/L)	AQL	DWS	LWW	GRW
Chloride				
chronic—	230(+)	250		
acute—	860(+)			
Sulfate	(+)	250		
Fluoride		4	4	4
Nitrate-N		10		10
Dissolved oxygen (minimum)				
warm-water and cool-water fisheries	5			
cold-water fisheries	6			
Oil and grease	10			
+ See 10 CSR 20-7.031(4)(L).				

Pollutant (/100 mL)	WBC-A	WBC-B	SCR
Fecal Coliform Bacteria*	200		1800
E. coli Bacteria*	126	[548/206]	1134

*Geometric mean during the recreational season in waters designated for recreation or at any time in losing streams. The recreational season is from April 1 to October 31.

Pollutant	AQL	
	$^{\circ}\text{F}$	$^{\circ}\text{C}$
Temperature (maximum)		
warm-water	90	32 2/9
cool-water	84	28 8/9
cold-water	68	20
Temperature (maximum change)		
warm-water	5	2 7/9
cool-water	5	2 7/9
cold-water	2	16/9

Pollutant (percent saturation)	AQL
Total Dissolved Gases	110%

- AQL = Protection of Aquatic Life
- HHF = Human Health Protection-Fish Consumption
- DWS = Drinking Water Supply
- IRR = Irrigation
- LWW = Livestock Wildlife Watering
- GRW = Groundwater

Pollutant ($\mu\text{g/L}$)	AQL	HHF	DWS	IRR	LWW	GRW
Metals						
(Nonhardness Dependant)						
Aluminum (acute)	750					
Antimony		4,300	6			6
Arsenic	20		50	100		50
Barium			2,000			2,000
Beryllium	5		4	100		4
Boron				2,000		2,000
Cadmium	*		5			5
Chromium III	*		100	100		100
Chromium VI						
chronic	10					
acute	15					
Cobalt					1,000	1,000
Copper	*		1,300		500	1,300
Iron	1,000					300
Lead	*		15			15
Manganese						50
Mercury			2			2
chronic	0.5					
acute	2.4					
Nickel	*		100			100
Selenium	5		50			50
Silver	*		50			50
Thallium		6.3	2			2
Zinc	*		5,000			5,000

*See Metals (Hardness Dependent)

AQL = Protection of Aquatic Life

Pollutant (µg/L)	AQL	
Metals (Hardness Dependent)		
Cadmium (µg/L)	Acute:	$e^{(1.0166 \cdot \ln(\text{Hardness}) - 3.062490)} * (1.136672 - (\ln(\text{Hardness}) * 0.041838))$
	Chronic:	$e^{(0.7409 \cdot \ln(\text{Hardness}) - 4.719948)} * (1.101672 - (\ln(\text{Hardness}) * 0.041838))$
Chromium III (µg/L)	Acute:	$e^{(0.8190 \cdot \ln(\text{Hardness}) + 3.725666)} * 0.316$
	Chronic:	$e^{(0.8190 \cdot \ln(\text{Hardness}) + 0.684960)} * 0.860$
Copper (µg/L)	Acute:	$e^{(0.9422 \cdot \ln(\text{Hardness}) - 1.700300)} * 0.960$
	Chronic:	$e^{(0.8845 \cdot \ln(\text{Hardness}) - 2.044953)} * 0.960$
Lead (µg/L)	Acute:	$e^{(1.273 \cdot \ln(\text{Hardness}) - 1.460448)} * (1.46203 - (\ln(\text{Hardness}) * 0.145712))$
	Chronic:	$e^{(1.273 \cdot \ln(\text{Hardness}) - 4.704797)} * (1.46203 - (\ln(\text{Hardness}) * 0.145712))$
Nickel (µg/L)	Acute:	$e^{(0.8460 \cdot \ln(\text{Hardness}) + 2.255647)} * 0.998$
	Chronic:	$e^{(0.8460 \cdot \ln(\text{Hardness}) + 0.058978)} * 0.997$
Silver (µg/L)	Acute:	$e^{(1.72 \cdot \ln(\text{Hardness}) - 6.588144)} * 0.850$
Zinc (µg/L)	Acute:	$e^{(0.8473 \cdot \ln(\text{Hardness}) + 0.884211)} * 0.978$
	Chronic:	$e^{(0.8473 \cdot \ln(\text{Hardness}) + 0.785271)} * 0.986$

	Hardness								
	50-74	75-99	100-124	125-149	150-174	175-199	200-224	225-249	250+
Cadmium									
Acute:	2.4	3.6	4.8	5.9	7.1	8.2	9.4	10.5	11.6
Chronic:	0.2	0.2	0.3	0.3	0.3	0.4	0.4	0.4	0.5
Chromium III									
Acute:	323	450	570	684	794	901	1,005	1,107	1,207
Chronic:	42	59	74	89	103	117	131	144	157
Copper									
Acute:	7	10	13	17	20	23	26	29	32
Chronic:	4	6	7	9	10	12	13	15	16
Lead									
Acute:	30	47	65	82	100	118	136	154	172
Chronic:	1	2	3	3	4	5	5	6	7
Nickel									
Acute:	261	367	469	566	660	752	842	930	1,017
Chronic:	29	41	52	63	73	84	94	103	113
Silver									
Acute:	1.0	2.0	3.2	4.7	6.5	8.4	10.6	13.0	15.6
Zinc									
Acute:	65	92	117	142	165	188	211	233	255
Chronic:	59	84	107	129	151	172	193	213	233

AQL = Protection of Aquatic Life
 HHF = Human Health Protection-Fish Consumption
 DWS = Drinking Water Supply
 GRW = Groundwater

Pollutant ($\mu\text{g/L}$)	AQL	HHF	DWS	GRW
Organics				
Acrolein		780	320	320
Bis-2-chloroisopropyl ether		4,360	1,400	1400
2, chlorophenol		400	.1	.1
2,4-dichlorophenol	7	790	93	93
2,4-dinitrophenol		14,000	70	70
2,4-dimethylphenol		2,300	540	540
2,4,5-trichlorophenol		9,800	2,600	2,600
2,4,6-trichlorophenol		6.5	2	2
2-methyl-4,6-dinitrophenol		765	13	13
Ethylbenzene	320		700	700
Hexachlorocyclopentadiene	.5		50	50
Isophorone		2,600	36	36
Nitrobenzene		1,900	17	17
Phenol	100		100	300
Dichloropropene		1,700	87	87
Para(1,4)-dichlorobenzene		2,600	75	75
Other Dichlorobenzenes		2,600	600	600
1,2,4-trichlorobenzene		940	70	70
1,2,4,5-tetrachlorobenzene		2.9	2.3	2.3
pentachlorobenzene		4.1	3.5	3.5
1,1,1-trichloroethane			200	200
1,1,2-trichloroethane		42	5	5
2,4-dinitrotoluene		9	.11	.04
1,2-diphenylhydrazine		.54	.04	.04
di (2-ethylhexyl) adipate			400	400
n-nitrosodiphenylamine		16	5	5
n-nitrosopyrrolidene		91.9		
2-chloronaphthalene	4,300			
n-nitrosodi-n-propylamine		1.4		

Pollutant ($\mu\text{g/L}$)	AQL	DWS	GRW
Pesticides			
Demeton	.1		
Endosulfan			
chronic—	.056		
acute—	0.11		
Guthion	.01		
Malathion	.1		
Parathion	.04		
2,4-D		70	70
2,4,5-TP		50	50
Chlorpyrifos	.04		
Alachlor		2	2
Atrazine		3	3
Carbofuran		40	40
Dalapon		200	200
Dibromochloropropane		.2	.2
Dinoseb		7	7
Diquat		20	20
Endothall		100	100
Ethylene dibromide		.05	.05
Oxamyl (vydate)		200	200
Picloram		500	500
Simazine		4	4
Glyphosate		700	700

AQL = Protection of Aquatic Life
 HHF = Human Health Protection-Fish Consumption
 DWS = Drinking Water Supply
 GRW = Groundwater

Pollutant ($\mu\text{g/L}$)	AQL	HHF	DWS	GRW
Bioaccumulative, Anthropogenic Toxics (+)				
PCBs		.000045		.000045
4-4' dichlorodiphenyldichloroethane (DDT)		0.00059	0.00059	0.00059
4-4' dichlorodiphenyldichloroethylene (DDE)		0.00059	0.00059	0.00059
4-4' dichlorodiphenyldichloroethane (DDD)		0.00084	0.00083	0.00083
Endrin		.0023	2	2
Endrin aldehyde		.0023	.75	.75
Aldrin		.000079	.00013	.00013
Dieldrin		.000076	.00014	.00014
Heptachlor	.0038	.0002	0.4	0.4
Heptachlor epoxide		.00011	0.2	0.2
Methoxychlor	.03		40	40
Mirex	.001			
Toxaphene		.000073	3	3
Lindane (gamma-BHC)		.062	.2	.2
Alpha,beta,delta-BHC		.0074	.0022	.0022
Chlordane		.00048	2	2
Benzidine		.00053	.00012	.00012
2,3,7,8-tetrachlorodibenzo-p-dioxin (ng/L)* (TCDD or dioxin)		.000014	0.000013	0.000013
Pentachlorophenol**	3.2-pH 6.5 5.3-pH 7.0 8.7-pH 7.5 14.0-pH 8.0 23.0-pH 8.5	8	1	1

+ Many of these values are below current detection limits; analyses will be determined by the 17th edition of *Standard Methods* or the most current methods approved by the Environmental Protection Agency.

*Units for dioxin are nanograms/liter (ng/L); 1 $\mu\text{g/L}$ = 1,000 ng/L.

**Toxic impurities may be present in technical-grade pentachlorophenol; monitoring and discharge control will assure that impurities are below toxic concentrations.

HHF = Human Health Protection-Fish Consumption
 DWS = Drinking Water Supply
 GRW = Groundwater

Pollutant ($\mu\text{g/L}$)	HHF	DWS	GRW
Anthropogenic Carcinogens(+)			
Acrylonitrile	.65	.058	.058
Hexachlorobenzene	.00074	1	1
Bis (2-chloroethyl) ether	1.4	.03	.03
Bis (chloromethyl) ether	0.00078	.00013	.00013
Hexachloroethane	8.7	1.9	1.9
3,3'-dichlorobenzidine	0.08	.04	.04
Hexachlorobutadiene	50	.45	.45
n-nitrosodimethylamine	8	.0007	.0007

(+) Some of these values are below current detection limits; analyses will be determined by the 17th edition of *Standard Methods* or the most current methods approved by the Environmental Protection Agency.

Pollutant ($\mu\text{g/L}$)	HHF	DWS	GRW
Volatile Organics			
Chlorobenzene	21,000	100	100
Carbon Tetrachloride	5	5	5
Trihalomethanes		80	80
Bromoform	360	4.3	4.3
Chlorodibromomethane	34	0.41	0.41
Dichlorobromoethane	46	0.56	0.56
Chloroform	470	5.7	5.7
Methyl Bromide	4,000	48	48
Methyl Chloride	470	5	5
Methylene Chloride	1,600	4.7	4.7
Dichlorodifluoromethane	570,000		
Trichlorofluoromethane	860,000		
1,2-dichloroethane	99	5	5
1,1,2,2-tetrachloroethane	11	.17	.17
1,1-dichloroethylene	3.2	7	7
1,2-trans-dichloroethylene	140,000	100	100
1,2-cis-dichloroethylene		70	70
Trichloroethylene	80	5	5
Tetrachloroethylene	8.85	0.8	0.8
Benzene	71	5	5
Toluene	200,000	1,000	1,000
Xylenes (total)		10,000	10,000
Vinyl chloride	525	2	2
Styrene		100	100
1,2-dichloropropane	39	0.52	0.52

Pollutant (Fibers/L)	DWS	GRW
Asbestos	7,000,000	

HHF = Human Health Protection-Fish Consumption
 DWS = Drinking Water Supply
 GRW = Groundwater

Pollutant ($\mu\text{g/L}$)	HHF	DWS	GRW
Polynuclear Aromatic Hydrocarbons			
Anthracene	110,000	9,600	9,600
Fluoranthene	370	300	300
Fluorene	14,000	1,300	1,300
Pyrene	11,000	960	960
Benzo(a)pyrene	.049	0.2	0.2
other polynuclear aromatic hydrocarbons*	.049	.0044	.0044
Acenaphthene	2,700	1,200	1,200

*This concentration is allowed for each of the following PAHs: benzo(a)anthracene, 3,4-benzofluoranthene, chrysene, dibenzo(a,h)anthracene, indeno(1,2,3-cd)pyrene and benzo(k)fluoranthene. Higher values may be allowed if natural background concentrations exceed these values.

Pollutant ($\mu\text{g/L}$)	HHF	DWS	GRW
Phthalate Esters			
Bis(2-ethylhexyl) phthalate	5.9	6	6
Butylbenzyl phthalate	5,200	3,000	3,000
Diethyl phthalate	120,000	23,000	23,000
Dimethyl phthalate	2,900,000	313,000	313,000
Di-n-butyl phthalate	12,000	2,700	2,700

Health Advisory Levels

Pollutant ($\mu\text{g/L}$)	DWS	GRW
Ametryn	60	60
Baygon	3	3
Bentazon	20	20
Bis-2-chloroisopropyl ether	300	300
Bromacil	90	90
Bromochloromethane	90	90
Bromomethane	10	10
Butylate	350	350
Carbaryl	700	700
Carboxin	700	700
Chloramben	100	100
o-chlorotoluene	100	100
p-chlorotoluene	100	100
Chlorpyrifos	20	20
DCPA (dacthal)	4,000	4,000
Diazinon	0.6	0.6
Dicamba	200	200
Diisopropyl methylphosphonate	600	600
Dimethyl methylphosphonate	100	100
1,3-dinitrobenzene	1	1
Diphenamid	200	200
Diphenylamine	200	200
Disulfoton	0.3	0.3
1,4-dithiane	80	80
Diuron	10	10

DWS = Drinking Water Supply
 GRW = Groundwater

Health Advisory Levels (continued)

Pollutant ($\mu\text{g/L}$)	DWS	GRW
Fenamiphos	2	2
Fluometron	90	90
Fluorotrichloromethane	2,000	2,000
Fonofos	10	10
Hexazinone	200	200
Malathion	200	200
Maleic hydrazide	4,000	4,000
MCPA	10	10
Methyl parathion	2	2
Metolachlor	70	70
Metribuzin	100	100
Naphthalene	20	20
Nitroguanidine	700	700
p-nitrophenol	60	60
Paraquat	30	30
Pronamide	50	50
Propachlor	90	90
Propazine	10	10
Propham	100	100
2,4,5-T	70	70
Tebuthiuron	500	500
Terbacil	90	90
Terbufos	0.9	0.9
1,1,1,2-Tetrachloroethane	70	70
1,2,3-trichloropropane	40	40
Trifluralin	5	5
Trinitroglycerol	5	5
Trinitrotoluene	2	2

*AUTHORITY: section 644.021, RSMo Supp. 2007 and section 644.026, RSMo 2000. Original rule filed May 13, 1977, effective Dec. 11, 1977. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Nov. 12, 2008, effective Nov. 22, 2008, expires May 20, 2009.*

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2007.

EXECUTIVE ORDER

08-37

WHEREAS, Missouri's tourism industry adds more than \$14 billion dollars a year to the Missouri state economy and attracts millions of guests from other states and nations; and

WHEREAS, Missouri's tourism industry could not be as robust as it is without the lodging services offered each year to those guests; and

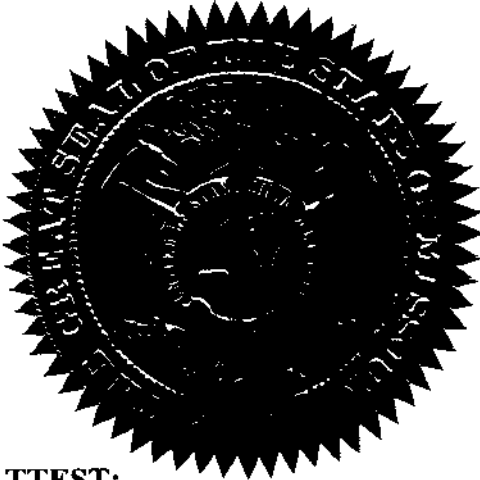
WHEREAS, increasingly, travelers prefer to support local businesses that can document a commitment to environmental protection; and

WHEREAS, no such mechanism currently exists in the state of Missouri; and

WHEREAS, the Missouri Department of Natural Resources is charged under state law with promoting programs that encourage energy conservation and environmental stewardship.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the state of Missouri, do hereby order the Missouri Department Natural Resources to:

1. Develop a voluntary certification program for Missouri's lodging industry to assist owners and managers to identify environmentally responsible practices;
2. Develop a verification and recognition program for those businesses that choose to participate;
3. Identify one or more private sector partners to assist in promoting this program with the industry; and
4. Implement this program with their partner(s) on or before December 31, 2008.



ATTEST:

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 13th day of November, 2008.

A handwritten signature in black ink that reads "Matt Blunt".

Matt Blunt
Governor

A handwritten signature in black ink that reads "Robin Carnahan".

Robin Carnahan
Secretary of State

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

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

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

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

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

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

[(2)](1) District coordinator. Missouri Department of Transportation (MoDOT) employee responsible for *[coordinating]* **assisting the technician certification coordinator (TCC) with setting up the Technician Certification Program (TCP) [training]** activities within a district as **needed**.

[(3)](2) Evaluator. An individual who has been approved by the materials qualification engineer (MQE) to administer performance evaluations.

[(4)](3) Materials qualification engineer (MQE). *[Missouri Department of Transportation]* **MoDOT** employee responsible for *[coordinating the]* **managing and supervising the TCC in the administration of TCP [training]** activities statewide.

(4) Registered intern status. Temporary qualification of new hires, students working over the summer, and seasonal employees as sampling or testing technicians-in-training who operate under the direct supervision of a qualified sampling or testing technician.

(5) Review board. A board chaired by the State *[Project Operations]* **Construction and Materials** Engineer that is responsible for *[oversight of the TCP and who makes]* **making decisions regarding [decertification] certification suspensions and revocations.**

(6) Technician. An individual *[trained]* **certified** to perform sampling and acceptance testing of materials used in transportation construction projects.

(7) Technician certification coordinator (TCC). MoDOT employee responsible for administering TCP activities statewide.

[(7)](8) Technician Certification Program (TCP). A program administered by MoDOT to certify technicians who perform sample and acceptance testing of certain materials used in transportation construction projects.

[(8)](9) Trainer. An individual who has been approved by the MQE to perform classroom instruction and administer written examinations and performance evaluations.

AUTHORITY: sections 226.020, 226.130, and 227.030, RSMo 2000 and 23 CFR Ch. 1, Part 637. Original rule filed May 7, 2002, effective Dec. 30, 2002. Amended: Filed Nov. 12, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pam 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.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 23—Technician Certification Program**

PROPOSED AMENDMENT

7 CSR 10-23.010 Definitions. The commission is deleting section (1), adding new sections (4) and (7), amending sections (2), (4), (5), and (6), and renumbering as needed.

PURPOSE: This proposed amendment will provide definitions of terms applicable to the Missouri Department of Transportation's technician certification program.

[(1) Apprentice certification. Temporary certification usually used for qualifying new hires, summer students, and seasonal workers.]

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 23—Technician Certification Program**

PROPOSED AMENDMENT

7 CSR 10-23.020 Certification/[Recertification] and Certification Renewal Requirements for Qualified Sampling and Testing Technicians and Sampling or Testing Technicians-in-Training. The commission is amending the title and sections (1) through (9).

PURPOSE: This proposed amendment will change the certification/recertification procedures for qualified sampling and testing technicians.

(1) **Applicability.** This rule applies to all individuals seeking *[an initial]* a certification or a *[re]certification renewal* from the Missouri Department of Transportation (MoDOT) as a qualified sampling or testing technician, and any individuals seeking registered intern status from MoDOT as a sampling or testing technician-in-training under the direct supervision of a qualified sampling or testing technician.

(2) **Applications.** Any individual seeking *[an initial]* a certification, *[or a [re]certification, or apprentice certification] renewal* shall complete the “Application Form—MoDOT Technician Certification Program.” Any individual seeking registered intern status shall complete *[either an Application for the MoDOT Technician Certification Program or Application Form—Apprentice Technician]* the “Application Form—MoDOT Intern Status Registration.” *[The]* These application forms can be obtained from the Internet at the MoDOT website at [http://www.modot.\[state\].mo.\[us\]gov](http://www.modot.[state].mo.[us]gov) or by contacting the *[materials qualification engineer (MQE)]* technician certification coordinator (TCC). Completed applications are to be forwarded to the *[MQE] TCC*.

(3) *[Initial]* Certification Requirements. Any individual seeking *[to be certified]* certification shall—

(A) Complete an *[Application for MoDOT Technician Certification Program]* “Application Form—MoDOT Technician Certification Program” in accordance with section (2) of this rule;

(B) Attend the *[required]* classroom instruction required by MoDOT for the desired certification in accordance with section (6) of this rule;

(C) Pass the written *[and performance]* examination *[given at the end of the classroom instruction]* in accordance with section (7) of this rule;

(D) Pass the performance examination in accordance with section (8) of this rule;

[(D)](E) *[Certifications will be valid for three (3) years. Certification]* Be eligible, upon passing the required examinations, for a certification that is valid for five (5) years after issuance, and may be perpetually renewed in accordance with section (4) of this rule; and

[(E)](F) *[Certifications may be revoked]* Be subject to certification suspension or revocation pursuant to 7 CSR 10-23.030.

(4) *[Recertification]* Certification Renewal Requirements. Any *[technician]* individual seeking *[to be recertified]* certification renewal shall—

(A) Complete an *[Application for MoDOT Technician Certification Program]* “Application Form—MoDOT Technician Certification Program” in accordance with section (2) of this rule;

(B) Attend *[a classroom instruction in the subject which certification is due to expire:]* the classroom instruction required by MoDOT for the desired certification renewal in accordance with section (6) of this rule, but that individual is

ineligible for certification renewal if said classroom instruction is not taken within ninety (90) calendar days after expiration of the certification desired for renewal;

[1. To qualify for recertification, the classroom instruction must be taken no later than ninety (90) days after the current certification expiration date;]

(C) Pass the written *[and performance]* examination *[given at the end of the classroom instruction]* in accordance with section (7) of this rule;

(D) Pass the performance examination in accordance with section (8) of this rule;

[(D)](E) *[Recertification shall be valid for three (3) years from the date of recertification]* Be eligible, upon passing the required examinations, for a certification renewal that is valid for five (5) years after issuance, and may be perpetually renewed in accordance with this section; and

[(E)](F) *[Recertifications may be revoked]* Be subject to certification suspension or revocation pursuant to 7 CSR 10-23.030.

(5) *[Apprenticeship]* Registered Intern Status Requirements. Any individual seeking *[apprentice certification]* registered intern status shall—

(A) Complete an *[Application for MoDOT Technician Certification Program]* “Application Form—MoDOT Intern Status Registration” in accordance with section (2) of this rule;

[(B)] Attend classroom instruction in the test methods which certification is being requested;]

[(C)] Pass the written and performance examination given at the end of the classroom instruction;]

[(D)](B) *[Apprentice certification shall be valid until March 1 of the following year from the date of examination; and]* Be eligible, upon approval of the application, for registered intern status that is valid for six (6) months after application approval;

(C) Not be eligible for application approval unless the individual is a new hire, a student working over the summer, or a seasonal employee, and that individual shall not be eligible for application approval if he or she has held a technician certification under MoDOT’s Technician Certification Program;

(D) Not be eligible for application approval more than once per calendar year, and that individual shall not be eligible for application approval more than four (4) times total; and

(E) *[Certifications may be revoked]* Be subject to registered intern status suspension or revocation pursuant to 7 CSR 10-23.030.

(6) Classroom Instruction. Classroom instruction is required for certification and *[recertification]* certification renewal.

(A) Course Schedule. The course schedule and list of locations shall be available to any interested person. It is available *[on]* via the Internet *[at]* on the MoDOT website at [http://www.modot.\[state\].mo.\[us\]gov](http://www.modot.[state].mo.[us]gov) or by contacting the *[MQE] TCC*.

(C) Costs. A fee schedule for courses can be found *[at]* via the internet on the MoDOT website at [http://www.modot.\[state\].mo.\[us\]gov](http://www.modot.[state].mo.[us]gov) or by contacting the *[MQE] TCC*. Charges for the courses will be invoiced upon acceptance of enrollment. Fees are forfeited if cancellation is not made within *[the time prescribed below in subsection (6)(D)]* ten (10) calendar days prior to the scheduled course date.

[(D)] Cancellation Policy. Cancellations must be made within ten (10) calendar days prior to the scheduled course date.]

(7) Written Examination Requirements.

[(A)] Individuals seeking an initial certification in a course are required to achieve a score for the course taken as defined in subsection (7)(C). If the required score is not achieved they are granted a retest, which must be completed within sixty (60) days of the course date.]

[(B) Technicians seeking recertification in a course are required to achieve a score for the course taken as defined in subsection (7)(C). If the required score for recertification is not achieved a retest is not granted. If the technician fails the written exam for recertification, the technician must complete the initial certification requirements described in subsection (3)(A) and achieve a score as defined in subsection (7)(C) of this section to maintain their certification.]

[(C)](A) [Scores] For both certification and certification renewal, the scores required for passing the written [exam] examination are—

1. [For Level 1 Technician, the passing score shall be at least eighty-five percent (85%).] Eighty-five percent (85%) for the following certification(s): Aggregate Technician, Bituminous Technician, Plasticity Index, Soil Density, Concrete Field, Concrete Strength, Profilograph, Aggregate Specific Gravity, Hot Mix Asphalt (HMA) Aggregate, Tensile Strength Ratio (TSR), AASHTO T85 Absorption, and Low Slump; and

2. For Level 2 Soils, Aggregate or Concrete, the passing score shall be at least eighty-five percent (85%).]

[3].2. [For Level 2 Bituminous, the passing score shall be at least eighty percent (80%).] Eighty percent (80%) for the following certification: Superpave Quality Control/Quality Assurance (QC/QA).

4. For Profilograph, Aggregate Specific Gravity or Low Slump, the passing score shall be at least eighty-five percent (85%).]

[(D) Individuals seeking apprenticeship status must achieve a score of seventy percent (70%) for each test method.]

[(E)](B) The reported information for the written examination will be Pass or Fail. Actual [exam] written examination scores [are not] shall be provided upon request. [Exam review is not allowed.]

(C) If an individual seeking certification fails to achieve a passing written examination score for the desired certification in accordance with this section, that individual shall be permitted to take another written examination for that certification within sixty (60) days of the reporting of that failing written examination score. If that individual fails to achieve a passing score for the second written examination attempt, then he or she must start anew to complete the certification requirements pursuant to section (3) of this rule.

(D) If an individual seeking certification renewal—

1. Fails to achieve a passing written examination score for the desired certification renewal in accordance with this section, and achieves a written examination score of sixty percent (60%) or less, then that individual must start anew to complete the certification requirements pursuant to section (3) of this rule.

2. Fails to achieve a passing written examination score for the desired certification renewal in accordance with this section, but achieves a written examination score greater than sixty percent (60%), then that individual shall be permitted to take another written examination for that renewal certification within sixty (60) days of the reporting of that failing written examination score. If that individual fails to achieve a passing score for the second written examination attempt, then he or she must start anew to complete the certification requirements pursuant to section (3) of this rule.

(8) Performance Examinations. The performance examinations given are demonstrations of the test procedure by the individual in the presence of an evaluator or trainer. To pass the performance examination, the individual must present a demonstration of all critical items of the test procedure. [Individuals are allowed] In a given performance examination, an individual is allowed two (2) opportunities to demonstrate the test procedure. [If both performance examinations are failed, the individual must complete the initial certification requirements in section (3).]

(A) If an individual seeking certification fails to successfully demonstrate the test procedure for the desired certification after exhausting both opportunities, then that individual shall be permitted to take another performance examination for that certification within sixty (60) days. If that individual fails to successfully demonstrate the test procedure for the second performance examination attempt, then he or she must start anew to complete the certification requirements pursuant to section (3) of this rule.

(B) If an individual seeking certification renewal fails to successfully demonstrate the test procedure for the desired certification renewal after exhausting both opportunities, then that individual shall be permitted to take another performance examination for that certification renewal within sixty (60) days. If that individual fails to successfully demonstrate the test procedure for the second performance examination attempt, then he or she must start anew to complete the certification requirements pursuant to section (3) of this rule.

(9) Reciprocity. Any individual certified by any other [state] certification program as a qualified sampling or testing technician may be considered, upon request for reciprocity, as meeting [the Technician Certification Program requirements of MoDOT.] the certification requirements pursuant to section (3) of this rule. Requests for reciprocity shall be submitted in writing to the [MQE] TCC for consideration. The [MQE] consideration of granting reciprocity rests with the [MQE] TCC and his/her interpretation of the equivalency of the program content in which the individual was certified.

(A) Upon approval of reciprocity by the TCC for a specified certification, the individual requesting reciprocity shall be eligible for a certification that is valid for the time remaining until expiration of the equivalent certification or five (5) years after reciprocity approval, whichever is of shorter duration.

(B) A certification by reciprocity approval may be perpetually renewed for five (5)-year periods in accordance with section (4) of this rule.

(C) Any individual approved for certification by reciprocity shall be subject to certification revocation pursuant to 7 CSR 10-23.030.

AUTHORITY: sections 226.020, 226.130, and 227.030, RSMo 2000 and 23 CFR Ch. 1, Part 637. Original rule filed May 7, 2002, effective Dec. 30, 2002. Amended: Filed Nov. 12, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pam 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.

Title 7—DEPARTMENT OF TRANSPORTATION Division 10—Missouri Highways and Transportation Commission

Chapter 23—Technician Certification Program

PROPOSED AMENDMENT

7 CSR 10-23.030 [Decertification] Certification Suspension and Revocation Procedures and the Appeal Process for Technicians

and Sampling or Testing Technicians-in-Training. The commission is amending the title and sections (1) and (2), adding a new section (2), and renumbering section (2) to section (3).

PURPOSE: This proposed amendment provides for the Missouri Department of Transportation to suspend or revoke a technician's certification status and the technician's right to appeal the suspension or revocation.

(1) [Decertification.] Certification Suspension and Revocation.

[(A) Any technician may have his/her certification suspended or revoked by the review board where:

1. The technician fails to renew their certification after three (3) years or fails to attend and pass the recertification course within ninety (90) days after the expiration date;

2. The technician is found to have committed fraud, abuse, willful negligence, or has demonstrated incompetence identified by the technician's supervisor or a certified technician, verified by a second certified technician; and

3. Upon written notice by the district coordinator to the review board through the materials qualification engineer (MQE).

(B) At a minimum, if the review board finds that the technician has failed to renew his/her certification or, has failed to obtain recertification in the required time period, or is found to have committed acts described in paragraph (1)(A)2. above, the following actions may be taken:

1. First offense may result in a written reprimand.

2. Second offense may result in a minimum thirty (30)-day suspension of all certifications held by the technician. The review board reserves the right to establish in each case the effective date of any suspension. A technician who has incurred a suspension may also be required to attend a recertification course or courses prior to the reinstatement of his/her certification.

3. Third offense may result in a permanent revocation of certifications.]

(A) The materials qualification engineer (MQE), after investigation of wrongdoing by a technician, shall propose suspension or revocation of the certification of that technician to the review board if he or she is found to have committed fraud, abuse, willful negligence, or has demonstrated incompetence identified by the technician's supervisor or a certified technician, verified by a second certified technician.

(B) The review board shall evaluate any proposal by the MQE to suspend or revoke the certification of a technician to determine whether action should be taken against that technician in the public interest. Depending upon the seriousness of the technician's acts or omissions, the existence of past review board actions against him or her, and any mitigating factors, the review board may take the following actions against that technician:

1. Issue a written reprimand to the technician;

2. Suspend all certifications held by the technician, reserving the right for the review board to establish in each case the effective date and length of any suspension, not to exceed one (1) year in duration;

3. Revoke all certifications held by the technician, requiring the technician to seek certification anew and complete all certification requirements again pursuant to 7 CSR 10-23.020; or

4. Revoke all certifications held by the technician, prohibiting the technician from seeking certification anew pursuant to 7 CSR 10-23.020 for a period of up to ten (10) years.

(C) The MQE must notify the technician in writing within ten (10) working days of any [suspension or decertification] determinations made by the review board on a proposal to suspend or revoke the technician's certification by the MQE.

(D) Any [decertification action] actions taken [other than permanent revocation of certifications,] by the review board

against a technician, except for certification revocation, will be removed from the technician's existing record three (3) years after the date of [decertification] such actions.

(2) Registered Intern Status Suspension and Revocation.

(A) The MQE, after investigation of wrongdoing by an individual with registered intern status, shall propose suspension or revocation of the registered intern status of that individual to the review board if he or she is found to have committed fraud, abuse, willful negligence, or has demonstrated incompetence identified by that individual's supervisor or a certified technician, verified by a second certified technician.

(B) The review board shall evaluate any proposal by the MQE to suspend or revoke the registered intern status of an individual to determine whether actions should be taken against that individual in the public interest. Depending upon the seriousness of the individual's acts or omissions, the existence of past review board actions against him or her, and any mitigating factors, the review board may take the following actions against that individual:

1. Issue a written reprimand to the individual;

2. Suspend the registered intern status held by the individual, reserving the right for the review board to establish in each case the effective date and length of any suspension, not to exceed six (6) months in duration;

3. Revoke the registered intern status held by the individual, prohibiting the individual from seeking registered intern status anew pursuant to 7 CSR 10-23.020 for a period of up to five (5) years; or

4. Revoke the registered intern status held by the individual, prohibiting the individual from seeking certification pursuant to 7 CSR 10-23.020 for a period of up to five (5) years.

(C) The MQE must notify the individual with registered intern status in writing within ten (10) working days of any determinations made by the review board on a proposal to suspend or revoke the individual's registered intern status by the MQE.

(D) Any actions taken by the review board against an individual with registered intern status, except for registered intern status revocation, will be removed from the individual's existing record three (3) years after the date of such actions.

[(2)](3) Appeal.

(A) Request for Informal Hearing.

1. When the MQE notifies a technician of a decision made by the review board concerning a proposal to suspend or revoke [its/ his or her] certification, the technician will have the opportunity to present information and arguments and request an informal hearing by the review board. Such request must be submitted in writing to the review board through the MQE within thirty (30) days of the [decertification] determination made by the review board.

2. When the MQE notifies an individual with registered intern status of a decision made by the review board concerning a proposal to suspend or revoke his or her registered intern status, the individual will have the opportunity to present information and arguments and request an informal hearing by the review board. Such request must be submitted in writing to the review board through the MQE within thirty (30) days of the determination made by the review board.

(B) Procedure. If [the] a technician or an individual with registered intern status requests a timely informal hearing, the review board, through the MQE, shall advise [the technician] that person of the time, date, and place of the informal hearing. This is not a contested case under Chapter 536, RSMo. The rules of evidence shall not apply at the informal hearing.

(C) Recourse. The decision of the review board after an informal hearing is considered final.

AUTHORITY: sections 226.020, 226.130, and 227.030, RSMo 2000

and 23 CFR Ch. 1, Part 637. Original rule filed May 7, 2002, effective Dec. 30, 2002. Amended: Filed Nov. 12, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pam 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.

Title 13—DEPARTMENT OF SOCIAL SERVICES

Division 70—MO HealthNet Division

Chapter 15—Hospital Program

PROPOSED RULE

13 CSR 70-15.200 Payment Policy for a Preventable Serious Adverse Event or Hospital or Ambulatory Surgical Center-Acquired Condition

PURPOSE: This rule establishes the MO HealthNet payment policy for services provided by acute care hospitals or ambulatory surgical centers that result in a preventable serious adverse event or hospital or ambulatory surgical center-acquired condition, errors in medical care that are clearly identifiable, preventable, and serious in their consequences for patients.

(1) Definitions.

(A) Adverse Event. A discrete, auditable, and clearly defined occurrence as identified by the National Quality Forum in its list of serious adverse events in health care, as of December 15, 2008, or an event identified by the Center for Medicare and Medicaid Services, as of December 15, 2008, that leads to a negative consequence of care resulting in an unintended injury or illness which was preventable.

(B) Preventable. An event that reasonably could have been anticipated and avoided by the establishment and implementation of appropriate policies, procedures, and protocols by a hospital or by staff conformance to established hospital or ambulatory surgical center policies, procedures, and protocols.

(C) Serious. An adverse event that results in death or loss of a body part, disability, or loss of bodily function lasting more than seven (7) days or still present at the time of discharge from a hospital.

(2) Payment to hospitals or ambulatory surgical centers enrolled as MO HealthNet providers for care related only to the treatment of the consequences of a serious adverse event will be denied or recovered by the MO HealthNet Division when such serious adverse event is determined to:

- (A) Be preventable;
- (B) Be within the control of the hospital;
- (C) Have occurred during an inpatient hospital admission;
- (D) Have resulted in serious harm; and

(E) Be included on the National Quality Forum list of Serious Reportable Events as of December 15, 2008, or the Centers for Medicare and Medicaid Services list of Medicare Hospital-Acquired Conditions (HCAs), non-payable by Medicare. The National Quality

Forum list of Serious Reportable Events as of December 15, 2008, includes:

1. Surgery performed on the wrong body part;
2. Surgery performed on the wrong patient;
3. Wrong surgical procedure on a patient;
4. Foreign object left in a patient after surgery or other procedure;
5. Intraoperative or immediately post-operative death in a normal health patient;
6. Patient death or serious disability associated with the use of contaminated drugs, devices, or biologics provided by the healthcare facility;
7. Patient death or serious disability associated with the use or function of a device in patient care in which the device is used or functions other than as intended;
8. Patient death or serious disability associated with intravascular air embolism that occurs while being cared for in a healthcare facility;
9. Infant discharged to the wrong person;
10. Patient death or serious disability associated with patient elopement (disappearance) for more than four (4) hours;
11. Patient suicide, or attempted suicide resulting in serious disability, while being cared for in a healthcare facility;
12. Patient death or serious disability associated with a medication error (error involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration);
13. Patient death or serious disability associated with a hemolytic reaction due to the administration of ABO-incompatible blood or blood products;
14. Maternal death or serious disability associated with labor or delivery on a low-risk pregnancy while being cared for in a healthcare facility;
15. Patient death or serious disability associated with hypoglycemia, the onset of which occurs while the patient is being cared for in a healthcare facility;
16. Death or serious disability (Kernicterus) associated with failure to identify and treat hyperbilirubinemia in neonates;
17. Stage 3 or 4 pressure ulcers acquired after admission to a healthcare facility;
18. Patient death or serious disability due to spinal manipulative therapy;
19. Patient death or serious disability associated with an electric shock while being cared for in a healthcare facility;
20. Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by toxic substances;
21. Patient death or serious disability associated with a burn incurred from any source while being care for in a healthcare facility;
22. Patient death associated with a fall while being cared for in a healthcare facility;
23. Patient death or serious disability associated with the use of restraints or bedrails while being cared for in a healthcare facility;
24. Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed healthcare provider;
25. Abduction of a patient of any age;
26. Sexual assault on a patient within or on the grounds of a healthcare facility; or
27. Death or significant injury of a patient or staff member resulting from a physical assault (battery) that occurs within or on the grounds of a healthcare facility.

(3) A MO HealthNet participant shall not be liable for payment for an item or service related to a serious adverse event or hospital or ambulatory surgical center-acquired condition or the treatment of consequences of a serious adverse event or hospital or ambulatory

surgical center-acquired condition that would have been otherwise payable by the MO HealthNet Division.

(4) Such payment limitation shall only apply to the hospital where the adverse event occurred and shall not apply to care provided by other hospitals should the patient subsequently be transferred or admitted to another hospital for needed care.

(5) All hospitals or ambulatory surgical centers enrolled as MO HealthNet providers shall include the "Present on Admission" (POA) indicator on the UB 04 when submitting claims for payment. The POA indicator shall be coded as instructed by the Centers for Medicare and Medicaid Services.

AUTHORITY: section 208.201, RSMo Supp. 2007. Original rule filed Nov. 17, 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 Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

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 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 10—Division of Employment Security
Chapter 4—Unemployment Insurance**

ORDER OF RULEMAKING

By the authority vested in the Division of Employment Security under section 288.220, RSMo 2000, the division adopts a rule as follows:

8 CSR 10-4.200 Unemployment Automation Surcharge is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1660-1661). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 2—Well Drillers and Pump Installers Permitting**

ORDER OF RULEMAKING

By the authority vested in the department's Well Installation Board, under section 256.606, RSMo 2000, the board amends a rule as follows:

10 CSR 23-2.010 Fee Structure is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2008 (33 MoReg 1408-1414). 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 September 2, 2008, and the public comment period ended September 5, 2008. At the public hearing, the Division of Environmental Quality staff made opening statements regarding the proposed amendment, and four (4) comments were made. There were an additional four (4) comments made by mail/email.

COMMENT #1: Mr. J.C. Booth, Booth Drilling Company, stated that he thought the increase in fees was excessive due to the economy and high price of steel casing. He felt the increase would be a hardship on well owners as well as well drillers.

RESPONSE: Most fees associated with this rulemaking have not been increased since 1994, and the water well certification fee has not been increased since 1990, therefore falling behind the current inflation rate. New fees for prospective well owners are approximately one percent (1%) of the cost of a new well. No changes have been made to this rule based on this comment.

COMMENT #2: Mr. Jay Gallagher, Custom Well & Pump, commented that the department is on the wrong track. He stated that since operating expenses for the section are fixed from year-to-year regardless of the number of wells drilled, the only increase in fees should be to the contractor licenses. He added that the contractor fees are more stable than the number of wells drilled each year.

RESPONSE: During the stakeholder process, a recurring theme was to raise the maximum on all fees. Stakeholders made numerous comments that the drilling industry should not have to bear the burden of the entire fee increase. Maximum permitting (licensing) fees will be increased, however the current level of permit fees is comparable to the national average of one hundred dollars (\$100) per permit (license) and may not have to be raised at this time. No changes have been made to the rule based on this comment.

COMMENT #3: Ms. Leslie Holloway, Missouri Farm Bureau, commented on several things. She questioned the reason for the increase in expenses to the section in the last few years, questioned why the Farm Bureau was not a part of the stakeholder process, and requested clarification on the caps (maximums) for the fees. She wanted to know the plan for how the increases would be determined for the life of the rule.

RESPONSE: After the hearing, staff met with all attendees of the public hearing to try to clarify section expenses, maximums listed in the proposed amendments, and that the Well Installation Board is the governing group that will determine when and the amount of the fee increases. No changes have been made to the rule based on this comment.

COMMENT #4: Mr. Allen Rowland, Missouri Farm Bureau, questioned why the fee increases are so high, wanted to know the costs to the department to run the program, wanted more clarification on the maximum amounts to be charged, and wanted the department to make farmers more aware of proposed changes to rules.

RESPONSE: Staff met with all attendees of the public hearing to try to clarify section expenses, maximums listed in the proposed amendments, and that the Well Installation Board is the governing group to determine when and the amount of the fee increases. No changes have been made to the rule based on this comment.

COMMENT #5: Mr. John Byrd, Irrigation Central, stated he was concerned that the water well certification fee was increasing so much and stated he had questions about permit fees being increased. He followed his comment by stating that the question he had regarding permit fee increases was resolved by staff before the hearing began.

RESPONSE: The water well certification fee has not been increased since 1990. When the rule was promulgated at that time, the current thirty-five dollar (\$35) fee was based on the department charging one percent (1%) of the cost of a new well. The cost of a new well has increased over the last eighteen (18) years, and the new fee structure reflects that increase. No changes have been made to the rule based on this comment.

COMMENT #6: Mr. Lindell Lindsey, A & M Pump/Missouri Water Well Association, stated that the association had no strong opposition to increasing the maximum fees in the proposed amendment. He added that the economy has drastically changed since the stakeholder meetings and would like to see a schedule regarding the rates at which the fees would be increased and when. He also added that he and the Association do not want to see the fees raised to their maximums to support staff whose workload may have decreased due to fewer wells being drilled.

RESPONSE: The Well Installation Board will set the rate at which the fees will be increased during a regularly scheduled board meeting, which may be attended by the public. Since the Missouri Water Well Association has no objection to the proposed maximum fee increases, no changes have been made to the rule based on this comment.

COMMENT #7: Two (2) written comments were received from Michael and Jami Geske stating the proposed increases are too expensive and will be passed on to individual landowners, especially those who have wells drilled for irrigation.

RESPONSE: The current water well certification fee has not been increased since 1990 and the proposed increase is approximately one percent (1%) of the cost of a new well. In 2007, there were approximately three hundred eighty-two (382) irrigation wells drilled in Missouri. The cost of a new well has increased over the last eighteen (18) years, and the new fee structure reflects that increase. No changes have been made to the rule based on this comment.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—Licensing Rules for Residential Child Care Agencies

ORDER OF RULEMAKING

By the authority vested in the Children’s Division under section 210.506, RSMo 2000, the director amends a rule as follows:

13 CSR 35-71.010 Definitions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1664–1665). 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—Licensing Rules for Residential Child Care Agencies

ORDER OF RULEMAKING

By the authority vested in the Children’s Division under section 210.506, RSMo 2000, the director amends a rule as follows:

13 CSR 35-71.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1665–1667). 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: One (1) comment was received.

COMMENT: A comment was received as to clarification if out-of-state background checks need to be done annually if the employee continues to reside in that state.

RESPONSE AND EXPLANATION OF CHANGE: Language has been added to ensure that annual out-of-state background checks are done on employees who live out of state.

13 CSR 35-71.020 Basic Residential Child Care Core Requirements (Applicable To All Agencies)—Basis for Licensure and Licensing Procedures

(2) Application for Licensure.

(A) An agency shall submit the following documents to the division—

1. Application for Licensure signed by the applicant;
2. Evidence of compliance with local building and zoning requirements;
3. A floor plan of the proposed site in which the specific use of each room is identified;
4. A signed copy of the Civil Rights Agreement;
5. A chart depicting the agency’s organizational structure and lines of supervision;
6. Written policies and procedures established by the board of directors which clearly set forth the authority and the responsibilities delegated to the executive director;
7. A copy of the Articles of Incorporation, bylaws, and board roster, including the addresses of all officers;
8. A proposed budget for a period of not less than one (1) year;
9. Verification of not less than three (3) months’ operating capital;
10. A written intake policy;
11. Written identification of specific program models or designs which shall include the methods of care and treatment to be provided;
12. Job title, job description, and minimum qualifications for all staff;
13. A projected staffing plan for the anticipated capacity;
14. Written child abuse and neglect reporting policy;
15. Written personnel practices, including staff training and orientation;
16. Written discipline policy;
17. Written visitation policy;
18. Written health care policy;
19. Written restraint policy which shall include a description of all methods to be used;
20. A needs assessment conducted and submitted as evidence of need for the type and scope of program proposed. This assessment shall include, at a minimum, an identification and survey of potential

referral sources, existing resources, and unmet community needs;

21. Evidence of compliance with fire safety requirements of the State Fire Marshal;

22. Documentation that the agency's water supply and sewage disposal system is currently in compliance with the requirements of the Department of Health and Senior Services if not an approved public source;

23. Verification of a physical examination for all staff working directly with children, completed by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician, shall be submitted within thirty (30) days of initial licensure using the form prescribed by the division;

24. Results of a check of the Family Care Safety Registry (FCSR) for all staff, as well as students, volunteers, and contractors who have direct contact with children. Any employee who resides in another state and works in the state of Missouri, or who has relocated to the state of Missouri within the last five (5) years, shall provide documentation of child abuse/neglect and criminal background screening check(s) from those states. When an employee who lived in another state or states within the last five (5) years now resides in the state of Missouri, the documentation of child abuse/neglect and criminal background screening check(s) from the previous state(s) only needs to be completed upon initial employment. If the employee continues to reside in another state, the out-of-state check shall be done annually. Results of employee medical examinations and background screenings (FCSR documentation) may be viewed by division licensing staff on site during routine record reviews;

25. Verification of the education and experience for all professional staff; and

26. Written description of the recreational program, and the manner in which staff are qualified and prepared to create, organize, and supervise them.

(6) Licensing Renewal.

(D) In addition to the completed application, the following documents shall be submitted:

1. Verification of a physical examination, completed by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician, for all staff working directly with children shall be submitted utilizing the form prescribed by the division;

2. A current board roster, including the addresses of all officers;

3. A summary of any significant changes to programs and copies of any resulting policies or policy changes;

4. A copy of a current organizational chart;

5. Annual results of a check of the Family Care Safety Registry (FCSR) for all staff, as well as students, volunteers, and contractors who have direct contact with children. Any employee who resides in another state and works in the state of Missouri, or who has relocated to the state of Missouri within the last five (5) years, shall provide documentation of child abuse/neglect and criminal background screening check(s) from those states. When an employee who lived in another state or states within the last five (5) years now resides in the state of Missouri, the documentation of child abuse/neglect and criminal background screening check(s) from the previous state(s) only needs to be completed upon initial employment. If the employee continues to reside in another state, the out-of-state check shall be done annually. Results of employee medical examinations and background screenings (FCSR documentation) may be viewed by division licensing staff on site during routine record reviews;

6. Evidence of current compliance with the fire and safety requirements of the State Fire Marshal;

7. A record of monthly drills for fire and emergency evacuations which are held at different times of the day and night;

8. Documentation that each facility's water supply and sewage

disposal system is currently in compliance with the requirements of the Department of Health and Senior Services if not an approved public source; and

9. A copy of a financial audit conducted by a certified public accountant not employed by the agency.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 35—Children's Division Chapter 71—Licensing Rules for Residential Child Care Agencies

ORDER OF RULEMAKING

By the authority vested in the Children's Division under section 210.506, RSMo 2000, the director amends a rule as follows:

13 CSR 35-71.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1668). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after the publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One (1) comment was received.

COMMENT: A comment was received as to clarification of neglect being of a child, or all neglect.

RESPONSE AND EXPLANATION OF CHANGE: Language has been added to ensure that it is clear that it is child neglect.

13 CSR 35-71.030 Hearings and Judicial Review

(1) Reasons for License Denial or License Revocation.

(A) The division may refuse to issue a license to an applicant, or may deny or revoke the license of a licensee, who—

1. Fails consistently to comply with the applicable provisions of sections 210.481–210.536, RSMo, and the applicable corresponding rules;

2. Violates any of the provisions of its license;

3. Violates state laws or rules relating to the protection of children;

4. Abuses or neglects children, or is the subject of multiple or serious reports of child abuse or neglect which upon investigation results in a court adjudicated, probable cause, and/or preponderance of evidence finding, or after (effective the date of this amendment) are found guilty, plead guilty, or plead no contest to felony crimes against persons as specified in Chapters 565, 566, 567, 568, and 573, RSMo, or the same serious crimes against persons regardless of the state or country in which the crime was committed and/or court adjudicated, probable cause, and/or preponderance of evidence child sexual abuse and/or serious child physical abuse and/or serious child neglect. An agency shall also exclude from employment persons who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure and the agency fails to take corrective action acceptable to the division;

5. Employs persons who abuse or neglect children, persons who are the subjects of multiple or serious reports of child abuse or child neglect which upon investigation results in a court adjudicated, probable cause, and/or preponderance of evidence finding or after (effective the date of this amendment) are found guilty, plead guilty, or plead no contest to felony crimes against persons as specified in Chapters 565, 566, 567, 568, and 573, RSMo, or the same serious crimes against persons regardless of the state or country in which the crime was committed and/or court adjudicated, probable cause, and/or preponderance of evidence child sexual abuse and/or serious

child physical abuse and/or serious child neglect. An agency shall also exclude from employment persons who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure and the agency fails to take corrective action acceptable to the division;

6. Furnishes or makes any misleading or false statements or reports to the division;

7. Refuses to submit any reports or refuses to make available to the division any records required in making an investigation;

8. Fails or refuses to submit to an investigation by an authorized and identified representative of the division at any reasonable time;

9. Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children as required by law, rule, or ordinance applicable to the location of a facility; or

10. Fails to provide adequate financial resources for the satisfactory care of children being served, or the upkeep of the premises, or both.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—Licensing Rules for Residential Child Care Agencies

ORDER OF RULEMAKING

By the authority vested in the Children’s Division under section 210.506, RSMo 2000, the director amends a rule as follows:

13 CSR 35-71.040 Organization and Administration is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1668–1669). 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—Licensing Rules for Residential Child Care Agencies

ORDER OF RULEMAKING

By the authority vested in the Children’s Division under section 210.506, RSMo 2000, the director amends a rule as follows:

13 CSR 35-71.045 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1669–1670). 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: Two (2) comments were received.

COMMENT #1: A comment was received as to clarification if out-of-state background checks need to be done annually if the employee continues to reside in that state.

RESPONSE AND EXPLANATION OF CHANGE: Language has

been added to ensure that annual out-of-state background checks are done on employees who live out of state.

COMMENT #2: A comment was received as to clarification of neglect being of a child, or all neglect.

RESPONSE AND EXPLANATION OF CHANGE: Language has been added to ensure that it is clear that it is child neglect.

13 CSR 35-71.045 Personnel

(1) General Requirements.

(D) Any employee who resides in another state and works in the state of Missouri, or who has relocated to the state of Missouri within the last five (5) years, shall provide documentation of background screening(s) from those states to include, but not limited to, child abuse/neglect and criminal background screening check(s). When an employee who lived in another state or states within the last five (5) years now resides in the state of Missouri, the documentation of child abuse/neglect and criminal background screenings check(s) from the previous state(s) only needs to be completed upon initial employment. If the employee continues to reside in another state, the out-of-state check shall be done annually. An agency shall exclude from employment (effective the date this rule is filed) staff who are found guilty, plead guilty, or plead no contest to felony crimes against persons as specified in Chapters 565, 566, 567, 568, and 573, RSMo, or the same serious crimes against persons regardless of the state or country in which the crime was committed and/or court adjudicated, probable cause, and/or preponderance of evidence child sexual abuse and/or serious child physical abuse and/or serious child neglect. An agency shall also exclude from employment persons who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure.

(3) Personnel Records. Personnel records shall be maintained for each staff member, as indicated below.

(A) For an employee, the personnel record shall include—

1. Verification of education and experience, and a copy of professional license, if applicable;
2. Verification of the names of three (3) persons, unrelated to the staff member, who can provide character references;
3. Verification of employer references for the past five (5) years and a history of any previous employment in child care settings;
4. A copy of the job description signed by the employee;
5. Reports of initial and biennial medical examinations that indicate that they are free from communicable disease, including, but not limited to, tuberculosis and hepatitis;
6. Results of annual checks of the Family Care Safety Registry;
7. Results of background screenings from other states in which employees have resided and/or have lived or worked within the past five (5) years, including an annual out-of-state check if the person resides in another state;
8. The date of employment, date of separation, reason(s) for separation;
9. Copies of an initial six (6) months’ performance evaluation and each subsequent annual evaluation;
10. Results of an annual driver record check for any employee, student, volunteer, and any contracted personnel who transports residents;
11. A copy of the signed confidentiality statement;
12. A copy of the signed discipline policy;
13. A copy of the signed mandated child abuse/neglect reporting policy;
14. A copy of a signed acknowledgement of receipt of program and personnel policies;
15. A copy of the signed acknowledgment of completed agency orientation; and
16. Documentation of staff training.

(B) Students, Volunteers, and Contracted Employees who have direct contact with children shall include—

1. Copy of professional credentials (if applicable);
2. Documentation of initial and biennial medical examinations that indicates that they are free from communicable disease including, but not limited to, tuberculosis and hepatitis;
3. Results of annual checks of the Family Care Safety Registry;
4. Results of background screenings from other states in which students/volunteers who have direct contact with children have resided and/or have lived or worked within the past five (5) years, including an annual out-of-state check if the person resides in another state;
5. A copy of the contract or any agreement outlining purpose of presence on site;
6. A copy of the signed confidentiality policy;
7. A copy of the signed discipline policy;
8. A copy of the mandated child abuse/neglect reporting policies;
9. A copy of the acknowledgement of receipt of policies related to their agreement/contract; and
10. Documentation of staff orientation participation.

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

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under sections 208.153 and 208.201, RSMo Supp. 2007, the division amends a rule as follows:

**13 CSR 70-3.100 Filing of Claims, MO HealthNet Program
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1670-1671). 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under section 208.201, RSMo Supp. 2007, the division amends a rule as follows:

**13 CSR 70-3.105 Timely Payment of MO HealthNet Claims
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1671-1672). 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 14—DEPARTMENT OF CORRECTIONS
Division 80—State Board of Probation and Parole
Chapter 5—Intervention Fee**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Corrections under sections 217.040 and 217.755, RSMo 2000 and section 217.690, RSMo Supp. 2007, the board amends a rule as follows:

14 CSR 80-5.010 Definitions for Intervention Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1672-1673). 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 14—DEPARTMENT OF CORRECTIONS
Division 80—State Board of Probation and Parole
Chapter 5—Intervention Fees**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Corrections under sections 217.040 and 217.755, RSMo 2000 and section 217.690, RSMo Supp. 2007, the board amends a rule as follows:

14 CSR 80-5.020 Intervention Fee Procedure is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1673-1674). 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 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 11—Renewals**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2007 and section 327.261, RSMo 2000, the board amends a rule as follows:

**20 CSR 2030-11.015 Continuing Professional Competency for
Professional Engineers is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1730). 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 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 11—Renewals**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2007 and sections 41.946 and 327.171, RSMo 2000, the board amends a rule as follows:

**20 CSR 2030-11.025 Continuing Education for Architects
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1730–1731). 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 2165—Board of Examiners for Hearing
Instrument Specialists
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Board of Examiners for Hearing Instrument Specialists under sections 346.115.1(7) and (8), RSMo 2000, the board amends a rule as follows:

20 CSR 2165-1.020 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2008 (33 MoReg 1459–1463). 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: The Board of Examiners for Hearing Instrument Specialists (BEHIS) received five (5) comments on the proposed amendment.

COMMENTS: Scott George, James Gallaher, Janette Call, Floyd Hansett, and Dick and Robin Clay all submitted essentially the same comments to the board both during the comment period for this proposed amendment as well as when division staff attended a meeting of the Small Business Regulatory Fairness Board. Commenters stated 1) the proposed fee increase is dramatic, that it creates a barrier to entry into the profession, and that it contributes to increasing

health care costs; 2) the State Board of Registration for the Healing Arts (BHA) subsidy was not considered and that any shortfall in funding is only temporary; 3) the increase in exam fees is not related to actual costs; 4) the Board of Examiners for Hearing Instrument Specialists (BEHIS) is inefficiently organized; and 5) the rule was improperly promulgated. The board also received a copy of an email calling for opposition to the proposed amendments, originally addressed to approximately seventy-six (76) different email accounts from Mr. Hansett in his capacity as the president of the Missouri Hearing Society, the trade association of hearing instrument specialists.

RESPONSE: BEHIS appreciates the serious issues raised by the comments. It notes, however, that the comments represent less than ten percent (10%) of the group that was specifically asked by email to object to the proposed rule, and two percent (2%) of the two hundred seventy-four (274) hearing instrument specialists who hold licenses with the board. BEHIS consists of six (6) members of the profession (all of whom either own or work for a small business) and a public member. Because of the similarity of the concerns expressed, they are answered as a group.

Issues 1, 2, & 3—The proposed fee increase is dramatic and the Healing Arts subsidy was not considered:

As required by section 346.115, RSMo, fees are to be set at a level which does not substantially exceed the cost of administering the provisions of Chapter 346, RSMo. In addition to direct costs of board operations, each board within the Division of Professional Registration is assessed a percentage of the cost allocation plan in order to support services provided by the division, department, and general revenue agencies which include Office of Administration, Governor's Office, Lieutenant Governor's Office, Secretary of State's Office, General Assembly, Capital Police, and Department of Revenue. Additionally, section 346.115, RSMo, prevents the board from collecting excessive fees by forfeiting them to the state's general revenue fund.

The division and its boards utilize a rolling five (5)-year financial analysis process to evaluate fund balances, establish fee structures, and assess budgetary needs. The five (5)-year analysis is based on the projected revenue, expenses, and number of licensees. Prior to House Bill 780 and Senate Bill 308, the board anticipated a fee increase would be necessary to maintain adequate funding (see scenario A). Due to various factors over the last five (5) years, the board has seen a steady increase in operating expenses. Most notably are the one hundred forty-three percent (143%) increase in fees for legal services provided by the Attorney General's Office and an eighteen percent (18%) increase in expense and equipment costs related to the board.

House Bill 780 and Senate Bill 308 removed the dual licensure requirement for audiologists and included a provision requiring BHA to subsidize the potential loss of revenue for the BEHIS. Prior to the enacted legislation, the total licensee count for BEHIS was four hundred forty-five (445); with the enactment of the legislation, the licensee count reduced to two hundred thirty-four (234). The change in the licensure law was effective only four (4) months before the profession renewed its licenses. The change and the significant drop in the licensee count occurred very quickly. It should be noted that House Bill 780 and Senate Bill 308 did not mandate audiologists to renew their hearing instrument license past the December 31, 2007, expiration date.

The primary revenue source for the board is license renewal fees. Other fees increased in the proposed amendment will contribute to the board funds as well; however, those fees were increased to cover specific costs of the services provided. For instance, the application fee, training application fee, and temporary permit extension fee have not been increased since the original rule proposal became effective on November 15, 1996. The only fees that have been increased are the exam fee that was originally established on November 15, 1996, at a rate of twenty-five dollars (\$25) and was increased on June 1,

1999, to ninety-five dollars (\$95). The renewal fee was increased from its original rate of one hundred twenty-five dollars (\$125) to two hundred fifty dollars (\$250) effective November 15, 2006. The increased renewal fee was due to the implementation of biennial renewals and was not an actual fee increase.

In an attempt to offset the impact of increased costs, an inactive fee was established by BEHIS in the most recent proposed amendment to allow licensees who are not actively practicing to pay a reduced fee to maintain their license.

The board is confident that the indirect increases to health care costs and the considerations of those planning on entering the profession will be minimal.

During its deliberations, the board considered all of these factors and determined that the fees are absolutely necessary to maintain the fund balance as required by statute and are set at the minimal amount necessary to cover the board's expenses.

The following scenarios were considered and support that the fee was set at a sufficient level to cover the expenses of the board.

Scenario	Licensee Count	Renewal Fee
Original Renewal Fee	445	\$250
A. Prior to HB780 and SB308 – Dual Licensure Requirements Continue (prior to HB780 and SB308) 1. Number of licensees remain the same 2. Cost Allocation (30%) 3. No subsidy 4. Need Fund Reserves 5. No Decrease in Revenue in FY08	445	\$400
B. Proposed Amendment – Dual Licensure Requirement Eliminated/Subsidy Required – 10% cost allocation 1. Reduced Number of Licensees 2. Reduced Cost Allocation (10%) 3. Subsidy 4. Need Fund Reserves 5. Unexpected Revenue Decrease in FY08	234	\$400
C. Dual Licensure Requirement Eliminated No Subsidy – 10% cost allocation 1. Same as scenario B 2. Same as scenario B 3. No Subsidy 4. Same as scenario B 5. Same as scenario B	234	\$600
D. Dual Licensure Requirement Eliminated Subsidy Required – 30% cost allocation 1. Reduced Number of Licensees 2. Cost Allocation (30%) 3. Subsidy 4. Need Fund Reserves 5. Unexpected Revenue Decrease in FY08	234	\$650
E. Dual Licensure Requirement Eliminated No Subsidy – 30% cost allocation 1. Same as scenario D 2. Same as scenario D 3. No Subsidy 4. Same as scenario D 5. Same as scenario D	234	\$875

Issue 4—The board is inefficiently organized.

Unfortunately, there was no attempt by the commenters to support this statement with any facts. Responding generally, the division has combined and shared several staff positions and resources allowing boards to reduce the cost of doing business. The allocation percentage is based on the estimated resource time needed to administer the provisions of Chapter 346, RSMo, and is evaluated on a regular basis. However, it is important to note that expense and equipment costs specifically related to BEHIS is paid solely by this board. The shared staff consists of three (3) full-time employees. The allocation percentage will continue to be monitored on a quarterly basis.

More specifically, it is not possible to compare the work load of audiologists imposed on the board compared to hearing instrument specialists because the audiologists were primarily licensed by another profession. Even with the reduction of licensees, the work load of BEHIS is not anticipated to decrease and board costs are expected to remain the same as the audiologists were not the primary driver of expenses incurred by the board.

Issue 5—The rule was improperly promulgated.

Chapter 536, RSMo, requires a small business impact statement when a small business is directly impacted. There is no foundation for the claim that small businesses were not included in the rule-making process. Board members are the owners or employees of small businesses. One member of the board is also a member of the board of directors of the profession's trade association, the Missouri Hearing Society. It is unfair to assume that the members of a professional board, who are actively involved day-to-day in the work of the profession, lack an understanding of what impact their actions have on their own livelihood.

Although the increase in fees for the professionals who work for them will undoubtedly have an indirect impact on the businesses that employ hearing instrument specialists, the proposed amendment does not mandate that small businesses pay the licensing or other fees of their employees. BEHIS only has the statutory authority to license individuals. The distinction between licensure of individuals and the licensure of business entities is important and has been consistently applied since Executive Order 3-15, the predecessor to the statutory Small Business Regulatory Fairness Board, was issued. Since 2003, the board and the Division of Professional Registration have followed this same analysis. A copy of the original guidelines, drafted by an assistant general counsel of the Department of Economic Development, is attached.

For the foregoing reasons, the board took no action to change the proposed amendment.

**GUIDELINES
EXECUTIVE ORDER 03-15**

DEFINITIONS

1. “Affected Small Business” or “Affects Small Business” – An agency’s rule affects small business if:
 - a. The rule has a direct and significant economic burden on small businesses in that it imposes fees or causes small businesses to expend significant funds to be in compliance with the requirements of the rule; or
 - b. The rule has a direct impact on how small businesses are formed, operated or expanded in that the rule requires significant variation from the normal course of forming, operating or expanding small businesses that is disproportionate to the impact on larger businesses.
2. “Complaint” – Any letter or request by a small business submitted to the Missouri Small Business Regulatory Fairness Board claiming that a rule has a disproportionate and adverse affect on the conduct of small businesses.
3. “Disproportionate and Adverse Impact” – A rule imposes a “disproportionate and adverse impact” on small businesses if it imposes excessive and unreasonable financial burdens on small businesses in comparison to the financial burdens imposed on larger businesses; or the rule imposes excessive and unreasonable burdens on the conduct of small businesses in comparison to the burdens imposed on larger businesses.
4. “State Agency” – Each board, commission, department, officer or other administrative office or unit of the state existing under the constitution or statute, and authorized by the constitution or statute to make rules or to adjudicate contested cases. “State agency” does not include the general assembly, the courts, the governor or a political subdivision of the state. *See* § 536.010, RSMo.
5. “Small Business” – A for-profit enterprise consisting of fewer than fifty (50) full or part-time employees.
6. “Small Business Impact Statement” – A statement describing the economic impact that a proposed rule(s) has on a small business. A small business impact statement shall include a reasonable determination of the following information:
 - a. The type of small businesses that will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s);
 - b. A description of the small businesses that will be required to comply with the proposed rule(s) and a description of how such businesses may be adversely and disproportionately affected;
 - c. In dollar amounts, the increase in the level of direct costs, such as fees or administrative penalties, and indirect costs, such as reporting, record keeping, equipment,

- construction, labor, professional services, revenue loss, or other costs associated with compliance, if such costs are capable of determination.
- d. The probable monetary costs and other benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used, if such costs are capable of determination. Benefits to the agency shall include the reasons necessary to impose the rules requirements on small businesses.
 - e. Any methods the agency considered or used to reduce the impact on small businesses, such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other methods designed to ease the rule's adverse impact on small businesses.
 - f. How the agency involved small businesses in the development of the proposed rule(s), including how the agency invited small business participation and whether any small businesses responded to the agency's requests for input; and
 - g. A comparison of the proposed rule(s) with any comparable federal, state or county standards.

PROCEDURES FOR FILING A SMALL BUSINESS IMPACT STATEMENT

1. Prior to filing a proposed rule(s), the state agency first shall determine whether a proposed rule(s) is required to have a small business impact statement. If the agency determines that its proposed rule(s) does not affect small business, the agency shall include a certification of "no impact" in the transmittal letter to the Secretary of State at the time the proposed rule(s) is filed. It should be noted that a rule is not deemed to affect small businesses if its only effect is to impose regulations on an individual who may be employed by or engaged in the operation of a small business.
2. If the state agency determines the proposed rule(s) does affect small businesses, the agency must then determine whether the proposed rule(s) falls under an exception to the requirement of filing a small business impact statement. A small business impact statement is not required in the following circumstances:
 - a. The proposed rule(s) is being promulgated on an emergency basis pursuant to section 536.025, RSMo; or
 - b. The proposed rule(s) substantially codifies existing federal or state law, without imposing requirements that affect small businesses in addition to what is already required by federal or regulations, or state statutes. It should be noted that federally imposed regulations are subject to the federal Regulatory Flexibility Act as amended by the Small Business Regulatory and Enforcement Fairness Act (*see* 5 U.S.C. §§ 601 et seq.). If the federal regulations were not enacted pursuant to the requirements of these acts, the state agency shall be required to comply with the requirements of Executive Order 03-15.

If the state agency determines that the proposed rule(s) falls within an exception to the requirements of Executive Order 03-15, the agency shall state which exception applies in the transmittal letter to the Secretary of State at the time the proposed rule(s) is filed.

3. If the state agency determines the proposed rule(s) does affect small businesses and does not fall with an exception to the requirements of Executive Order 03-15, the agency shall prepare a small business impact statement. The small business impact statement shall be included with the proposed rule(s) filed with the Secretary of State. A copy of the proposed rule(s) and the small business impact statement shall be submitted to the Joint Committee on Administrative Rules and the Missouri Small Business Regulatory Fairness Board on the same date as they are filed with the Secretary of State.
4. Until such time as the Missouri Small Business Regulatory Fairness Board is appointed, a copy of the proposed rule(s) and the small business impact statement may be filed with the Office of the General Counsel in the Missouri Department of Economic Development. The Office of General Counsel shall maintain a file of proposed rules and small business impact statements to be submitted to the Missouri Small Business Regulatory Fairness Board once the Board has been appointed and is in operation.

PROCEDURES FOR RESPONDING TO BOARD RECOMMENDATIONS

1. The state agency may receive comments and recommendations from the Missouri Small Business Regulatory Fairness Board concerning any agency rule that the Board has determined has a disproportionate and adverse impact on small businesses. The Board's recommendations may be based on any one or combination of the following:
 - a. The rule creates an undue barrier to the formation, operation and expansion of small businesses in a manner that significantly outweighs the rule's benefit to the public. An "undue barrier" occurs when a rule imposes excessive and unreasonable requirements on small businesses such that small businesses are greatly inhibited in their formation, operation or expansion; or
 - b. New or significant economic information has created an undue impact on small businesses. An "undue impact" occurs when a rule imposes excessive and unreasonable financial costs on small businesses in a manner that greatly inhibits the ability to operate small businesses; or
 - c. Technology, economic conditions or other relevant facts justifying the purpose for the rule has changed or no longer exists; or
 - d. If the rule was adopted after the requirements of Executive Order 03-15 became effective, whether the actual effect on small businesses was not reflected in or significantly exceeded the small business impact statement submitted prior to the adoption of the rule(s).

2. The state agency shall have sixty (60) days from the date of the agency's receipt of comments and/or recommendations from the Board in which to file a response. The agency shall respond to each specific comment and/or recommendation.
3. If the state agency determines that no action shall be taken on the Board's comments and/or recommendations, the agency shall explain its reasons for such determination. The agency's response shall include any relevant information and data that helps to explain its determination that no action should be taken.
4. If the state agency determines that the Board's comments and/or recommendations merit an amendment to the agency's rule(s), the agency shall indicate this in its response to the Board and thereafter initiate proceedings in accordance with the applicable requirements of Chapter 536, RSMo.
5. If the state agency determines that the Board's comments and/or recommendations merit an amendment to the agency's proposed rule(s), and the comments/recommendations are received prior to the filing of a final order of rulemaking, the agency may implement the changes in its final order of rulemaking to be filed with the Secretary of State and in accordance with the applicable requirements of Chapter 536, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2165—Board of Examiners for Hearing
Instrument Specialists
Chapter 2—Licensure Requirements**

ORDER OF RULEMAKING

By the authority vested in the Board of Examiners for Hearing Instrument Specialists under sections 346.095 and 346.115.1(7), RSMo 2000, the board amends a rule as follows:

20 CSR 2165-2.060 License Renewal is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2008 (33 MoReg 1465-1466). 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.

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

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

**NOTIFICATION OF REVIEW:
APPLICATION REVIEW SCHEDULE**

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for February 2, 2009. These applications are available for public inspection at the address shown below:

Date Filed

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

11/20/08

#4242 RS: MacKenzie Place on the Plaza
Kansas City (Jackson County)
\$25,507,593, Establish 99-bed assisted living facility (ALF)

11/21/08

#4301 HS: SSM Rehabilitation Hospital
Bridgeton (St. Louis County)
\$23,025,945, Establish 60-bed rehabilitation hospital

#4202 RS: The Village of Jackson Creek
Independence (Jackson County)
\$0, Add 10 ALF beds

#4298 HS: SSM St. Joseph Hospital West
Lake St. Louis (St. Charles County)
\$1,694,454, Replace interventional radiology equipment

#4304 RS: Meadow Ridge Estates Assisted Living
Moberly (Randolph County)
\$3,775,000, Establish 40-bed ALF

#4307 RS: The Gardens at Barry Road
Kansas City (Platte County)
\$27,000,000, Add 148 ALF beds

#4297 NS: Green Park Nursing Home
St. Louis (St. Louis County)
\$483,616, Add 28 skilled nursing facility beds

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by December 24, 2008. All written requests and comments should be sent to:

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

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

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

IN ADDITION

Pursuant to section 226.091, RSMo regarding the Construction Claims Binding Arbitration Cap for the Missouri Department of Transportation, the Director of Insurance, Financial Institutions and Professional Registration is required to calculate the new limit.

Using Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 226.091, RSMo, the Construction Claims Binding Arbitration Cap for the Missouri Department of Transportation effective January 1, 2009, was established by the following calculation:

Index Based on 2000 Dollars	
Third Quarter 2008 IPD Index	123.15
Third Quarter 2007 IPD Index	117.96

$$\text{New 2009 Limit} = 2008 \text{ Limit} \times (2008 \text{ Index} / 2007 \text{ Index})$$

$$386,791 = 370,490 \times (1.2315 / 1.1796)$$

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

IN ADDITION

Pursuant to section 537.610, RSMo regarding the Sovereign Immunity Limits for Missouri Public Entities, the Director of Insurance, Financial Institutions and Professional Registration is required to calculate the new limits on awards for liability.

Using Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 537.610, RSMo, the two new Sovereign Immunity Limits effective January 1, 2009, were established by the following calculations:

Index Based on 2000 Dollars	
Third Quarter 2008 IPD Index	123.15
Third Quarter 2007 IPD Index	117.96

$$\text{New 2009 Limit} = 2008 \text{ Limit} \times (2008 \text{ Index} / 2007 \text{ Index})$$

$$\text{For all claims arising out of a single accident or occurrence: } 2,525,423 = 2,418,992 \times (1.2315 / 1.1796)$$

$$\text{For any one person in a single accident or occurrence: } 378,814 = 362,849 \times (1.2315 / 1.1796)$$

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

IN ADDITION

Pursuant to section 105.711, RSMo regarding the State Legal Expense Fund, the Director of Insurance, Financial Institutions and Professional Registration is required to calculate the new limit.

Using Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 105.711, RSMo, the State Legal Expense Fund Limit effective January 1, 2009, was established by the following calculation:

Index Based on 2000 Dollars
Third Quarter 2008 IPD Index 123.15
Third Quarter 2007 IPD Index 117.96

New 2009 Limit = 2008 Limit \times (2008 Index / 2007 Index)

395,666 = 378,991 \times (1.2315 / 1.1796)

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

**NOTICE OF CORPORATE DISSOLUTION TO ALL CREDITORS OF
AND CLAIMANTS AGAINST MARDA GATEWOOD DESIGNS, INC.**

On October 31, 2008, Marda Gatewood Designs, Inc., a Missouri corporation (the "Company"), filed its Articles of Dissolution with the Missouri Secretary of State. The dissolution of the Company was effective on October 31, 2008.

The Company requests that all persons and entities with claims against the Company present them in accordance with this notice.

All claims against the Company must be in writing and must include the name, address and telephone number of the claimant, the amount of the claim or other relief demanded, the basis of the claim, the date or dates on which the events occurred which provide a basis for the claim, and copies of any available document supporting the claim. All claims should be mailed to Howard H. Kaplan, Stinson Morrison Hecker LLP, 168 N. Meramec, Suite 400, St. Louis, Missouri 63105.

Any claim against the Company will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the publication of this notice.

NOTICE OF CORPORATE DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST NORTH COUNTY PAYDAY LOANS, INC

On April 24, 2008, North County Payday Loans, Inc, a Missouri corporation, filed its Articles of Dissolution with the Missouri Secretary of State. Dissolution was effective on April 24, 2008.

Any claims against the Company may be sent to: EZ Financial Management, LLC, ATTN: Greg Daney, 11821 Adie Road, St. Louis, Missouri 63043. Each claim must include the following information: the name, address and phone number of the claimant; the amount claimed; the date on which the claim arose; the basis for the claim; and documentation for the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after publication of this notice.

NOTICE OF DISSOLUTION OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST EZ PAYDAY LOANS OF MISSOURI, LLC

On April 24, 2008, EZ Payday Loans of Missouri, LLC, a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for a Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: EZ Financial Management, LLC, ATTN: Greg Daney, 11821 Adie Road, St. Louis, Missouri 63043. Each claim must include the following information: the name, address and phone number of the claimant; the amount claimed; the date on which the claim arose; the basis for the claim; and documentation for the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after publication of this notice.

NOTICE OF DISSOLUTION OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST CENTRAL CASH ADVANCE, LLC

On April 24, 2008, Central Cash Advance, LLC, a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for a Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: EZ Financial Management, LLC, ATTN: Greg Daney, 11821 Adie Road, St. Louis, Missouri 63043. Each claim must include the following information: the name, address and phone number of the claimant; the amount claimed; the date on which the claim arose; the basis for the claim; and documentation for the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after publication of this notice.

**NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF
AND CLAIMANTS AGAINST ZANKER PIVOT COMPANY, LLC**

On October 31, 2008, Zanker Pivot Company, LLC, a Missouri limited liability company ("Company"), filed its Notice of Winding Up with the Missouri Secretary of State, effective on the filing date.

Said Company requests that all persons and organizations who have claims against it present them immediately by letter to: Business Services Group, 2345 Grand Boulevard, Suite 2000, Kansas City, MO 64108. All claims must include the full name, address and telephone number of the claimant; the amount of the claim; the basis for the claim; the date on which the claim arose; and documentation for the claim.

Because of this dissolution, any claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the last filing or publication of this Notice.

**NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF
AND CLAIMANTS AGAINST HARMES FARMS, CO.**

On August 27, 2008, Harmes Farms, Co., a Missouri corporation ("Corporation"), was administratively dissolved by the Missouri Secretary of State.

Said Corporation requests that all persons and organizations who have claims against it present them immediately by letter to: Business Services Group, 2345 Grand Boulevard, Suite 2000, Kansas City, MO 64108. All claims must include the full name, address and telephone number of the claimant; the amount of the claim; the basis for the claim; the date on which the claim arose; and documentation for the claim.

Because of this dissolution, any claims against the Corporation will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the last filing or publication of this Notice.

**NOTICE OF DISSOLUTION OF LIMITED LIABILITY COMPANY TO ALL
CREDITORS AND CLAIMANTS AGAINST AUX ARCS PROPERTIES, LLC.**

On October 27, 2008, Aux Arcs Properties, LLC, a Missouri limited liability company, filed its Notice of Winding Up for limited liability company with the Missouri Secretary of State, effective on the filing date.

Said company requests that all persons and organizations who have claims against it present them immediately by letter to the Company at: Aux Arcs Properties, LLC, c/c General Counsel, 1619 E. Independence, Springfield, MO 65804. All claims must include the name, address and telephone number of the claimant; the amount of the claim; the basis for the claim; the date on which the claim arose; and documentation for the claim.

All claims against Aux Arcs Properties, LLC will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

**NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS OF AND CLAIMANTS AGAINST
DARRCO SUNSHINE, L.L.C.**

On November 13, 2008, DARRCO Sunshine, L.L.C., a Missouri limited liability company ("Company"), filed its Notice of Winding Up with the Missouri Secretary of State, effective on the filing date.

All persons and organizations must submit to Company, c/o John M. Carnahan III, Carnahan, Evans, Cantwell & Brown, P.C., 2805 S. Ingram Mill, Springfield, Missouri 65804, a written summary of any claims against Company, including: 1) claimant's name, address and telephone number; 2) amount of claim; 3) date(s) claim accrued (or will accrue); 4) brief description of the nature of the debt or the basis for the claim; and 5) if the claim is secured, and if so, the collateral used as security.

Because of the dissolution, any claims against Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the last of filing or publication of this Notice.

**NOTICE OF WINDING UP FOR
LIMITED LIABILITY COMPANY
GLOBAL FIBER ACCESS, LLC**

On November 6, 2008, Global Fiber Access, LLC, a Missouri limited liability company (the "Company") filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Persons and organizations with claims against Global Fiber Access, LLC should present said claims immediately by letter to the Company, c/o Affinity Law Group, LLC, Attn: Bradley W. Crandall, 755 South New Ballas Road, Suite 140, St. Louis, Missouri 63141.

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

NOTICE: Because of the winding up of Global Fiber Access, LLC, any claims against it will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication date of the notices authorized by statute, whichever is published last.