

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

An important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making 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 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 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 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 30 days from the date of publication of the new notice.

need for effective regulation and enforcement of oversize overweight movement.

AUTHORITY: section 304.200, RSMo Supp. 1988. Original rule filed Aug. 11, 1972, effective Aug. 21, 1972. Amended: Filed Sept. 18, 1972, effective Sept. 28, 1972. Amended: Filed Feb. 1, 1973, effective Feb. 11, 1973. Amended: Filed Sept. 21, 1973, effective Oct. 1, 1973. Amended: Filed July 1, 1974, effective July 11, 1974. Amended: Filed July 27, 1976, effective Nov. 15, 1976. Amended: Filed Oct. 13, 1978, effective Jan. 15, 1979. Amended: Filed Dec. 8, 1978, effective April 15, 1979. Amended: Filed Sept. 2, 1980, effective Dec. 15, 1980. Amended: Filed Oct. 6, 1982, effective Jan. 15, 1983. Amended: Filed June 1, 1984, effective Oct. 15, 1984. Amended: Filed Dec. 16, 1985, effective March 15, 1986. Amended: Filed Sept. 17, 1986, effective Dec. 15, 1986. Amended: Filed June 10, 1988, effective Oct. 13, 1988. Amended: Filed Nov. 9, 1989, effective Feb. 11, 1990. Emergency rescission filed Nov. 9, 1999, effective Nov. 19, 1999, expires May 16, 2000. Rescinded: Filed Nov. 9, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty 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 2—Traffic Regulation**

PROPOSED RULE

7 CSR 10-2.010 Overdimension and Overweight Permits

PURPOSE: This rule provides a uniform system for issuing special permits to regulate vehicles used on the state highways which when loaded exceed the limitations on length, width, height and weight established in Chapter 304, RSMo, to provide for the public safety and to prevent damage to public property.

- (1) Administrative Regulations.
 - (A) In the design and fabrication of all vehicles, machinery, equipment, structures, buildings or other units or components, careful consideration must be given to the legal and physical limitations applicable to all available forms of transportation between point of fabrication and the original or subsequent destinations.
 - (B) Permits will not be granted for travel on Missouri highways for movement of a load reducible in dimension(s) or weight, except for farm products as permitted in sections (7) and (10). Reducible portions of any overdimension or overweight load shall include, but are not limited to, any attachment, accessory, member or assembly designed to be detached with hand tools.
 - (C) Unladen vehicles or combinations are to comply with legal size and weight limitations as listed in Chapter 304, RSMo unless exceptions can be justified by safety considerations based on an

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

**Title 7—DEPARTMENT OF
HIGHWAYS AND TRANSPORTATION
Division 10—Missouri Highways and
Transportation Commission
Chapter 2—Traffic Regulation**

PROPOSED RESCISSION

7 CSR 10-2.010 Overdimension and Overweight Permits. This rule established a uniform system for issuing special permits to regulate vehicles used on the state highways which when loaded exceeded the limitations on length, width, height and weight established in Chapter 304, RSMo, and provided for the public safety and preventing damage to public property.

PURPOSE: The purpose of this proposed rescission is to respond to the tremendous growth of the motor carrier operations and the

overdimension or overweight object to be transported by the vehicle.

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

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

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

(G) Permits may specify maximum and minimum speeds to reduce hazards or control impact factors on pavement or structures. Power units shall have sufficient weight and power to handle the load safely and maintain reasonable speeds.

(H) Permits for round trips will not be issued. Each single trip permit covers the movement of one (1) load only, between one origin and one destination, except for the multi-stop permit designed for transportation of farm implement delivery only. Moves must be completed in seven (7) moving days, except for pre-issued permits which must be completed in five (5) days, multi-state permits which must be completed in ten (10) days, and blanket permits which are for a specified period.

(I) Movement is restricted on the following holidays: New Year's Day (January 1), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Thanksgiving Day (fourth Thursday in November), and Christmas Day (December 25).

1. The restriction for Thanksgiving will begin at 12:00 noon on Wednesday and apply through Sunday. In the event a holiday falls on Saturday, the restriction will apply to the preceding Friday. If a holiday falls on Sunday, the restriction will apply to the following Monday. On all holidays the restriction will begin at 12:00 noon on the day preceding the holiday or the holiday weekend period.

2. All permit offices are closed on the holidays listed in subsection (1)(I) and also closed on Martin Luther King Day (third Monday in January), Presidents' Day (third Monday in February), Veterans' Day (November 11), and on any date designated by the governor as a holiday; however, movement under permit is allowed on these days.

(J) Travel under permit must be with licensed vehicles and vehicles must be licensed for maximum weights in order to obtain overweight permits.

(2) Financial Responsibility.

(A) An applicant must have minimum insurance in the amount of fifty thousand dollars (\$50,000) per person and two hundred thousand dollars (\$200,000) per occurrence personal injury liability and fifty thousand dollars (\$50,000) property damage liability or a combined single limit liability amount of two hundred fifty thousand dollars (\$250,000) or qualify as a self-insurer pursuant to section 303.220, RSMo 1994 before a permit can be issued. Refer to subsection (8)(C) for financial responsibility for escorts.

(B) For moves under section (15), the applicant is required to submit proof of insurance in the amounts of five hundred thousand dollars (\$500,000) per person and one (1) million dollars per occurrence personal injury liability and five hundred thousand dollars (\$500,000) property damage liability or a combined single limit amount of one million five hundred thousand dollars (\$1,500,000) before a permit can be issued. For movement of a noncommercial building (as described in section (16)), the insurance certificate or other evidence of insurance provided by the applicant must include the following statement under description of operations: "STRUCTURAL MOVING OPERATIONS OF THE NAMED INSURED INCLUDED IN THIS COVERAGE." In the case of excessive overweight, additional financial responsibility may be required to protect the state in regard to excessive damage to highway facilities.

(C) Insurance for all permit operation shall be in force for the entire permit period.

(3) Agreements and Conditions.

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

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

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

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

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

5. Should the permittee, their officers, agents or employees, encounter a condition on the route prescribed not contemplated by the permit, or signs or markings indicating an emergency condition creating a reasonable doubt as to the continuance of the trip, the operator of the vehicle will call the appropriate official or employee of the Missouri Department of Transportation for a suggested course of action. In any event, departure from a prescribed route, except by specific authorization of the department, renders the permit void;

6. Any misrepresentation in the application for a special permit or any operation not made in strict compliance with the permit and in compliance with the laws of Missouri and the United States, except as specifically exempted, is unlawful and renders the permit void;

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

8. Permits voided by a violation shall be surrendered to any law enforcement officer or to any employee of the Missouri Department of Transportation and permits so surrendered should be returned to the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102;

9. A new permit covering the remainder of the movement will "Not" be issued until all charges arising out of the violation have been satisfied and the routing or movement modified to meet the regulations established herein;

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

11. Permission granted is only for weights and dimensions as specified and compliance in all other respects is required with Chapters 301 and 304, RSMo, as amended, all other applicable state and federal laws and rules and regulations of state and federal regulatory bodies.

(B) In addition to these agreements and conditions, the following will apply:

1. All violations or misrepresentations will be recorded and the permittee may be requested to submit a written explanation for the offense involved;

2. The applicant may be required to submit a bond with acceptable surety providing penalties for future violations; and

3. Flagrant or repeated violations are not in the interest of public safety and the permittee will be advised in writing, if his/her record is such that future permits should not be granted in the opinion of the chief engineer of the Missouri Department of Transportation.

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

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

(B) Application for permits are accepted in person, by mail, by telephone, and by computer modem.

(C) Applications shall be submitted with adequate information to complete the "Application for Overweight and/or Overdimension Permit Form" (15)(A). This form may be reproduced or copies will be furnished upon request. Each application shall show all information requested in regard to applicant, load description (including make, model, serial number and dimensions) and vehicle. The type of power unit (truck or tractor) and trailer (semi or other configuration) may also be questioned.

(D) Application for an overdimension permit must show overall width, length, length of trailer and load, overhang front and/or rear, empty deck space front and/or rear, and overall height. Application for an overweight permit must show axle loads and axle spacings measured center-to-center between each axle. Additional information may be requested for further clarification.

(E) Special permit fees are payable prior to the issuance of the permit and if the permit becomes invalid for any reason, the original fee shall be nonrefundable and a new permit with fee will be necessary. Postal and telegraphic money orders and personal, company, certified and cashier's checks must be made payable to the director of revenue, Credit State Road Fund. Cash is also accepted. The special permit fees are as follows:

1. Single trip overdimension permits—\$12;

2. Single trip overdimension permits in excess of sixteen feet (16') wide, sixteen feet (16') high or one hundred fifty feet (150') long—\$12 plus \$200 movement feasibility fee;

3. Multi-stop overdimension permit—\$20 (farm implements only);

4. Single trip overweight permits up to one hundred fifty-two thousand (152,000) pounds gross weight—\$12 plus \$15 per each ten thousand (10,000) pounds in excess of legal gross weight;

5. Single trip overweight permits in excess of one hundred fifty-two thousand (152,000) pounds gross weight—\$12 plus \$15 per each ten thousand (10,000) pounds in excess of legal gross weight plus bridge and roadway analysis fee of \$350 for each permit for moves from 0–50 miles in length; \$550 for 51–200 miles; \$750 for over 200 miles (see subsection (15)(E));

6. Annual emergency overweight permit (round trip)—\$500—(fee will be prorated quarterly);

7. Annual overdimension permit—\$100 (fee will be prorated quarterly);

8. Annual overweight well drillers' blanket permit—\$250 (fee will be prorated quarterly);

9. Thirty (30)-day blanket permit—\$25;

10. Project permit—\$100;

11. Highway crossing permit—\$200;

12. Noncommercial building movement (in excess of routine dimensions)—\$12 plus \$200 movement feasibility fee; and

13. Blanket permit license transfer fee—\$10 (transfer of license plates to another vehicle). Original permit shall be rendered void and returned to Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Office, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102.

(F) Fees will not be required for permits covering the movement of vehicles owned and operated by governmental subdivisions or agencies.

(G) Permits may be applied for at the locations listed in (4)(H) and permits will be issued during regular business hours of 7:30 a.m. to 4:00 p.m. Monday through Friday except holidays listed in paragraph (1)(I)1. Telephone applications are accepted from 7:30 a.m. until 3:45 p.m. at (800) 877-8499 or (573) 751-2871 Monday through Friday except holidays listed in section (1). Electronic modem applications are also available and may be made from 7:00 a.m. until 9:00 p.m.

(H) Office locations for Missouri Department of Transportation—

1. Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102, (800) 877-8499 or (573) 751-2871;

2. District 1—3602 North Belt Highway, Box 287, St. Joseph, MO 64502, (816) 387-2350;

3. District 2—U.S. Route 63, P.O. Box 8, Macon, MO 63552, (660) 385-3176;

4. District 3—Highway 61 South, P.O. Box 1067, Hannibal, MO 63401, (573) 248-2490;

5. District 4—5117 East 31st Street, Kansas City, MO 64128, (816) 889-3350;

6. District 5—1511 Missouri Boulevard, P.O. Box 718, Jefferson City, MO 65102, (573) 751-3322;

7. District 6—1590 Woodlake Drive, Chesterfield, MO 63017-5712, (314) 340-4100;

8. District 7—3901 East 32nd Street, P.O. Box 1445, Joplin, MO 64802, (417) 629-3300;

9. District 8—3025 E. Kearney, P.O. Box 868, Springfield, MO 65801, (417) 895-7600;

10. District 9—910 Springfield Road, P.O. Box 220, Willow Springs, MO 65793, (417) 469-3134; and

11. District 10—201 North Main Street, P.O. Box 160, Sikeston, MO 63801, (573) 472-5333.

(I) All types of permits may be picked up at any of the permit office locations. The permit fee is payable prior to the issuance of the permit. Annual blanket permits may be picked up in person or transmitted by mail only by the Motor Carrier Services Unit in Jefferson City (see section (7)).

(J) Pre-issued permits are issued by telephone by the Motor Carrier Services Unit in Jefferson City only (see section (5)).

(K) All permits, except pre-issued and blanket permits, may be transmitted by facsimile machine from the Motor Carrier Services Unit location in Jefferson City only. The transmission is made to any of the district locations or one of the receiving stations which have been approved by the Missouri Department of Transportation. Department facsimile transmission costs and telephone costs are included in the permit fee (see subsection (4)(E)). The following requirements and procedures apply for facsimile transmissions:

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

2. Proper arrangement for payment of permit fee must be made either by use of escrow accounts, which must be in effect prior to permit application request (see section (6)), or by payment of the fee at the time of application. Permits cannot be received by computer, retransmitted by facsimile or modified from its original form. Upon request, receiving stations may be required to copy a message to confirm legibility of permits and mail it to the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102. Failure to comply with required procedures will result in cancellation of the privilege of receiving permits by facsimile transmission.

(5) Pre-Issued Permits.

(A) Pre-issued permits may be requested for the purpose of transporting loads which are overdimension only with a maximum width of twelve feet four inches (12'4"). Travel under pre-issued permits must be completed in five (5) days. To obtain pre-issued permits, contact the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102 for an application for pre-issued permits.

(B) The "Pre-Issued Permit Form" is prepared in blocks of five (5) and sold for twelve dollars (\$12) for each permit in accordance with section (4).

(C) The applicant's name and complete address will be preprinted on each pre-issued form and the notation "Pre-Issued Form" typed in the upper left-hand corner.

(D) To place a pre-issued permit form into effect, the applicant is to call the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102, at the number listed on the form and provide the necessary information to complete the form. This additional information is to be typed or placed on the form in ink in a legible manner by the applicant. Changes or eraser marks voids the permit. Movement may then be made under provisions of the permit and all other applicable Missouri permit regulations.

(E) Upon completion of a move, the original pre-issued permit shall be returned immediately to the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P. O. Box 270, Jefferson City, MO 65102, and mailed not later than eight (8) hours after the completion of the move. Should the permit not be used, it is to be returned to the same office and mailed not later than eight (8) hours after its assigned expiration date.

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

(G) Pre-issued permit forms are nontransferable, are not to be reproduced and no refunds will be made for pre-issued forms voided, canceled, relinquished, stolen or lost. Upon written request, an account may be closed and the unused balance processed for a refund. All unused pre-issued permits must be returned to the Missouri Department of Transportation, Motor Carrier Services

Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102 with the written request to close the account.

(6) Escrow Accounts.

(A) An escrow account may be established with the Missouri Department of Transportation in lieu of paying for each permit when it is issued. The following conditions govern the establishment and maintenance of escrow accounts:

1. An escrow account may be applied for by submitting an application supplying all the necessary information. Applications may be obtained from the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102;

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

3. The Motor Carrier Services Unit in Jefferson City issues quarterly statements showing charges, deposits and account balance;

4. The account holder may replenish his/her escrow account at any time. However, deposits shall be made in multiples of one hundred dollars (\$100); and

5. An escrow account will remain open as long as there is a positive balance. Upon written request, an account may be closed and the unused balance processed for a refund.

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

(C) The escrow account is available for all types of overdimension and overweight permits. The escrow account is nontransferable and shall be used for the payment of permit fees only. The account shall be reduced by the fee amount for each permit issued.

(7) Blanket Permits. Blanket permits may be issued for specific moves up to twelve feet four inches (12'4") in width and one hundred fifty feet zero inches (150'0") in overall length. Height and weight shall be in accordance with Chapter 304, RSMo. The fee schedule for blanket permits is outlined in subsection (4)(E). Separate permits are required for each power unit. To qualify for an annual blanket permit, insurance must be in force for the entire period (see section (2)) and vehicles must be properly licensed. Annual blanket permits are issued only by the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102. All annual permits will have an expiration date of December 31. Violation of a blanket permit shall be cause for revocation of the current blanket permit and may result in loss of the privilege of obtaining future blanket permits. Blanket permit moves shall be made in accordance with all other regulations and requirements. The permittee is required to obtain current travel restrictions prior to movement with blanket permits.

(A) Applications for blanket permits will be considered for manufactured and sectional home units, farm implements, farm products (hay), road-building equipment, soil-conservation equipment, implements of husbandry, repeated moves of like objects with similar dimensions and governmental agencies. These permits authorize travel over state-maintained highways only. Movement from origin to destination must be by the most feasible direct route. Under all conditions, safety considerations, bridge loading and clearance postings must be complied with. Permittee must properly warn traffic, adjust speed, and if necessary, stop traffic when crossing bridges where the load exceeds one-half (1/2) the roadway width of the bridge. Travel over structures, on which load limits

are posted for lesser weights, is not allowed. Permittees traveling on interstate highways must maintain the posted minimum speed.

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

2. Farm implements, farm products (hay), road-building equipment, soil-conservation equipment. Annual blanket permits are available for these moves up to twelve feet four inches (12'4") in width. All other dimensions and weight shall be legal. Farm implements or equipment not designed for towing at highway speeds must be hauled. If the equipment is designed to be towed, it shall meet all regulatory safety requirements. Permittees shall comply with all existing Missouri overdimension permit regulations. Farm products (hay) will not be required to comply with the reducible load requirement. For road-building or soil-conservation equipment, the permit shall specify make, model and serial number of the listed equipment.

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

4. Repeated moves of like objects. Annual blanket permits for the movement of specific nonreducible commodities may be issued to a maximum width of twelve feet four inches (12'4") and/or overall length up to a maximum of one hundred fifty feet (150'). Height and weight shall be legal. The following items may be considered: boats, portable buildings, wood trusses, steel trusses, plates, beams, angles, pipe or piling, reinforcing steel mesh, rods or bars, tanks, mobile office trailers, grain carts, cotton trailers, park trailers, precast concrete panels, aluminum plates, wood beams and concrete girders. The permit will describe and specify the object to be hauled and is not intended for and will not be issued for machinery. A blanket permit may be issued for the repeated movement of objects for permanent use in their transported form. Such objects may vary in size as long as the largest is within the width and/or length limit specified on the permit. Multipiece loads must be nonreducible and nondivisible in dimension; and

5. Governmental agencies. Annual blanket permits may be issued to a governmental division, subdivision or agency for the transporting of equipment for reasons clearly in the public interest, up to twelve feet four inches (12'4") in width. All other dimensions and weight shall be legal. The permit shall specify make, model and serial number of the listed equipment. If the equipment is designed to be towed, it shall meet all regulatory safety requirements. Permits for emergency situations will be considered according to section (12).

(B) Blanket permits are also available for items that may be overdimension or overweight with varying operation areas and time periods. These blanket permits may be issued as explained in the following paragraphs:

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

2. Annual water well-drilling blanket. Annual blanket permits for water well-drilling rigs may be issued to a maximum width of twelve feet four inches (12'4"), and/or overlength to a maximum of sixty feet (60') for single units and weights not to exceed twenty thousand (20,000) pounds or legal weight on a single axle, forty thousand (40,000) pounds on a tandem axle group or sixty thou-

sand (60,000) pounds on a triple or quadrum axle group and a gross weight not to exceed the maximum allowable gross weight according to the number of axles and the specified axle spacings as shown on the weight table in subsection (11)(G). Equipment classified for use in water well-drilling work is a single unit designed primarily to drill water wells. The unit shall be reduced in dimension as much as practical. Drill bits and other necessary drilling tools may be carried with the drill rig provided the permitted axle and gross vehicle weight are not exceeded. The permit authorizes travel over state-maintained highways only and must be able to maintain minimum speed on the interstate system. Travel over bridge structures on which a load limit is posted for lesser weights is not allowed;

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

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

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

6. Overlength semi-trailer. Annual blanket permits are available for the movement of semi-trailers up to fifty-eight feet (58') in length. All other dimensions and weight shall be legal. Operation is limited to the interstate and designated truck routes plus ten (10) miles therefrom with origin or destination within the state. When in combination with a power unit the distance between the fifth wheel kingpin and the center of the rearmost semi-trailer axle shall not exceed forty-five feet six inches (45'6");

7. Projects. Blanket permits are available for the movement and/or operation of overdimension and overweight road-building equipment within the limits of a specific highway project, or combination of projects, for a period not to exceed the completion date of that project. The permittee shall coordinate movement and/or operation necessity and procedures with the project engineer and collectively submit a permit application containing all pertinent information to include any special or unusual circumstances with a recommendation to the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102; and

8. Longer combination vehicles (LCV) blanket permits. Combinations defined as Rocky Mountain Doubles (RMD), Turnpike Doubles (TPD), and triple-trailers currently allowed to operate on turnpikes in other states. Annual blanket permits are available for longer combination vehicles up to one hundred twenty feet (120') in overall length to travel to and from locations within twenty (20) miles of the western border. All other dimensions and weight shall be legal. This permit authorizes travel over specified routes.

(8) Escorts and Flaggers. It is the responsibility of the permittee to see that escorts which accompany their moves, adhere to these regulations in addition to the regulations specifying when escorts and flaggers are required, as listed in sections (9), (13) and (14).

(A) An "escort" is defined as a vehicle with operator which accompanies oversize moves to serve as a warning to other traffic that extra caution is required. Operators of escort vehicles must obey all traffic laws and shall be at least eighteen (18) years of age.

(B) The escort vehicle must be a properly licensed single unit vehicle of standard size with unobstructed vision to the front and rear and in safe operating condition. The unit may be an automobile, pickup truck, utility vehicle, station wagon or equivalent.

(C) Minimum financial responsibility such as automobile personal injury liability in the amounts of fifty thousand dollars (\$50,000) each person, two hundred thousand dollars (\$200,000) each accident, and property damage liability in the amount of fifty thousand dollars (\$50,000) or a combined single limit liability in the amount of two hundred fifty thousand dollars (\$250,000) is required on the escort vehicle. It is the responsibility of the permittee to see that this is in force.

(D) Oversize load signs shall be displayed on the front and/or rear of the escort vehicle, whichever is applicable for the move. A sign mounted on the top of the vehicle with printing on both sides is acceptable. Signs are to be a minimum size of five feet (5') long by one foot (1') high with minimum eight inch (8") high letters. The sign's background shall be yellow with black lettering and visible for at least three hundred feet (300'). The legend shall read "OVERSIZE LOAD."

(E) Escort vehicles are to be equipped with at least two (2) red or orange fluorescent warning flags mounted on a staff at the two (2) front extremities of the vehicle for a front escort and at the rear extremities for a rear escort. The escort vehicle for overheight loads (see paragraph (9)(H)3.) shall have a vertical clearance detection device and have direct communication with the power unit. Flags used for flagging and on permit vehicles shall be clean, red or orange fluorescent warning flags, in good condition, with no advertising or wording and be at least eighteen inches (18") square.

(F) Flaggers are required as outlined in subsection (9)(J). Flaggers shall have proper training in directing traffic and must be courteous, alert and have a high sense of responsibility for the safety of all concerned.

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

(A) The permit must accompany the move until the move is completed;

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

(C) No movement is allowed during specified holiday periods listed in section (1);

(D) No movement is allowed on Saturdays and Sundays in the Lake of the Ozarks and Branson areas as follows:

1. Lake of the Ozarks area—restriction applies June 1 through Labor Day (first Monday in September).

A. Route 54—between the junctions with Routes 52 east and AA in Camden County.

B. Route 5—between the junction with Route 54, northerly to Gravois Mills.

C. Route 42—between the junctions with Routes 54 and 134.

D. Business 54—between the east and west junctions with Route 54;

2. Branson area—restriction applies June 1 through October 31.

A. Route 76—between the junctions with Routes 13 and 160.

B. Route 13—between Reeds Spring and junction with Route 86 west; and

3. The restrictions mentioned in subsection (9)(D) will include all intersecting routes within a distance of ten (10) miles, with the exception of Route 65 in the Branson area, which is not restricted;

(E) For safety and to reduce traffic congestion, Monday through Friday travel in the metropolitan areas of St. Louis, St. Charles, Kansas City and Springfield is restricted as follows (The metropolitan area curfews indicated in subsection (9)(E) do not apply to loads that are overweight only):

1. St. Louis City and County, with the exception of Route 370, is restricted between the hours of 6:30 a.m. to 9:00 a.m. and 3:30 p.m. to 6:30 p.m.;

2. St. Charles County on I-70, eastbound travel between the junction with Route 61 and the Missouri River Bridge is restricted from 6:30 a.m. to 9:00 a.m. and I-70 westbound between the Missouri River Bridge and the junction with Route 61 is restricted from 3:30 p.m. to 6:30 p.m.; Route 40/61 (both directions) between the Missouri River Bridge and I-70 and Route 94 (both directions) between Route 370 and Route 40/61 are restricted from 6:30 a.m. to 9:00 a.m. and 3:30 p.m. to 6:30 p.m.;

3. Jefferson County on I-55 (both directions) between the St. Louis County line and Route 67; Route 21 and Route 30 (both directions) between St. Louis County line and Route BB; Route 141 (both directions) between the St. Louis County line and Route 61/67 is restricted between the hours of 6:30 a.m. to 9:00 a.m. and 3:30 p.m. to 6:30 p.m.;

4. In the Kansas City area on the routes or inside of the area bounded by Routes 150, 291, I-470, 152 West, to I-435 (Platte County) exit 24 south to the Kansas state line, travel is restricted between the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.; and

5. Inside the city limits of Springfield, travel is restricted between the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., except on I-44 and Route 65;

(F) Movements of major equipment or other special loads for short distances with origin and destination within major urban areas may be permitted between the hours of 1:00 a.m. and 6:00 a.m. Monday through Friday, except for these time periods on and immediately following a holiday period and on Sunday from 1:00 a.m. to 12:00 noon, except where this time conflicts with a holiday period. Such movements must be pre-planned and all protection must be provided for the safety of the public as follows:

1. Required signing must be lighted or reflectorized. Amber lights at the extreme ends or projection of the load or vehicle must be provided in lieu of flags; and

2. Additional escorts over the standard requirements may be required dependent on the complexity or size of the movement;

(G) Maximum speed for all moves shall be ten (10) miles per hour less than the posted speed limit unless otherwise specified on the permit. Movements over routes where minimum speed limits are posted shall operate at least at the minimum speed posted;

(H) Escort requirements are as follows:

1. Overwidth. No escort is required for loads up to and including twelve feet four inches (12'4") in width. Escort requirements for loads exceeding twelve feet four inches (12'4") in width are in sections (13), (14), (15) and (16);

2. Overlength. A rear escort is required for movements when the vehicle and load exceed ninety feet (90') for a combination unit on all highways except divided highways and as required in sections (12) and (15);

3. Overheight. A height detection vehicle is required to precede overheight loads exceeding fifteen feet six inches (15'6"). The height detection vehicle shall have a vertical clearance detection device and have direct communication with the power unit; and

4. Special escort requirements may be specified whenever the size, speed or operation of movement may require. A separate escort shall be provided for each load and travel in convoy is not allowed;

(I) Front escorts shall travel approximately three hundred feet (300') in front of the load and rear escorts approximately three hundred feet (300') to the rear of the load. In heavy traffic or when traveling within cities or towns, the escort vehicle should maintain a distance consistent with existing traffic conditions; and

(J) Flagging is required whenever the dimensions of overwidth loads are equal to or exceed the width of the traveled lane on two (2)-lane bridges or whenever the movement is of such width or length that it infringes on the adjacent lane of traffic. The operator of the escort vehicle may act as the flagger. On shorter bridges it may not be necessary to actually stop traffic if sight distance is good, but on longer bridges or where sight distance is short, a flagger must be used to direct traffic and be prepared to stop traffic if necessary. A flagger is also required if the permitted vehicle and load must stop due to a breakdown with all or part infringing on the traveled roadway. Additional traffic control may be required for large complex moves. All traffic control devices shall meet the requirements listed in the *Manual on Uniform Traffic Control Devices* (MUTCD) published by the Federal Highway Administration (FHWA).

(10) Regulations for Overdimension Permits. In addition to the regulations in sections (7), (9), (13), (14), (15), and (16); the following applies to all overdimension permits:

(A) Red or orange fluorescent flags in good condition with a minimum size of eighteen inches (18") square shall be displayed at the extreme ends or projections of all overwidth and overlength loads, and all four (4) corners of manufactured and sectional home units. Oversize load signs at least seven feet (7') long by eighteen inches (18") high with ten-inch (10") letters of one and five-eighths inch (1-5/8") stroke shall be displayed front and rear for loads exceeding ten feet six inches (10'6") in width on all highways and when the overall length of a combination unit exceeds ninety feet (90') or the overall length of a single unit exceeds fifty feet (50') an oversize load sign is required on the rear of the load. The sign's background shall be yellow with black lettering. The legend for these signs shall read "OVERSIZE LOAD";

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

MISSOURI RIVER BRIDGES

Location	Route	Roadway Width
Brownsville	136	22'6"
Rulo	159	20'0"
St. Joseph	36	Dual Lanes
Atchison	59	24'0"
Leavenworth	92	26'0"

Kansas City Area

Platte County	I-435	Dual Lanes
Riverside	I-635	Dual Lanes

Fairfax	69	Dual Bridges
Broadway	169	Dual Lanes
Heart of America	9	Dual Lanes
Paseo	I-29/I-35	Dual Lanes
Randolph	I-435	Dual Lanes
Liberty	291	24'0"
Waverly	65/24	20'0"
Miami	41	22'0"
Boonville	5	44'
Glasgow	240	20'3"
Rocheport	I-70	Dual Lanes
Jefferson City	63/54	Dual Bridges
Washington	47	22'0"
St. Charles	I-70	Dual Bridges
St. Charles	370	Dual Lanes
Weldon Springs	40/61	Dual Bridges
West Alton	67	Dual Lanes

MISSISSIPPI RIVER BRIDGES

Location	Route	Roadway Width
Hannibal	36	22'0"
Louisiana	54	20'0"
Quincy, Illinois	24	Dual Bridges
Alton, Illinois	67	Dual Lanes
St. Louis (Chain of Rocks)	I-270	Dual Lanes
St. Louis (Jefferson Barracks)	I-255	Dual Bridges
Chester, Illinois	51	22'0"
Cape Girardeau	74	20'0" (no overweight loads)
Cairo, Illinois	I-57	Dual Lanes
Caruthersville	I-155	Dual Lanes

No permit movement on the following Mississippi River Bridges:

Location	Route
St. Louis	I-70/I-55/I-64—Poplar Street Bridge
Cairo, Illinois	60/62

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

Location	Route
Lexington	13
Hermann	19

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

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

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

(F) Movement of farm products up to, but not exceeding, fourteen feet (14') in width will be allowed by permit. These movements

must comply with all existing Missouri overdimension and overweight permit regulations except reference to reducible loads in subsection (1)(B) shall not apply. The hauling unit must be properly licensed; and

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

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

(A) Overweight permits may specify maximum and minimum speeds and method of vehicle operation to reduce hazards or control impact factors and load distribution on pavements and bridges. Overweight loads moving with routine hauling unit configurations, not overdimensional and not exceeding the gross weight limit as listed in subsection (11)(C), will be granted day and night movement except travel during holiday and holiday weekend periods as listed in subsection (1)(I) and except for movement in metropolitan and tourist areas listed in subsection (9)(E). All movements authorized under overweight permits will be over specified routes only;

(B) Axles included in tandem axle, triple axle or quadrum axle groups on all hauling units shall be equipped with dual wheels or equivalent tread width. Definitions—

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

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

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

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

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

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

7. The term "lift axle" shall mean any axle designed with the capabilities of manipulation or adjustment of the weight on it or the axle group by use of manual valve(s). Under no circumstances will

"lift axles" be recognized in weight computations. An additional axle may be added to an existing axle group provided—

A. All axles have a common equalization system;

B. All equalization is accomplished with automatic valves; and

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

8. The term "booster axle" shall mean an extension of a hauling unit which when attached to the trailer adds a single axle or tandem axle group. A booster axle is acceptable provided the distance of the center of the rearmost trailer axle to the center of the first booster axle is at least fourteen feet (14') but not more than twenty feet (20') and the axle connects to the vehicle frame in such a manner as to equalize the load between axles;

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

5-Axle Configurations

Single-Tandem-Tandem (1-2-2)

Single-Tandem-Spread (1-2-2)

Minimum distance between the centers of the first and last axles is 51 feet.

Maximum gross weight allowed on a 5-axle configuration is 92,000 pounds.

6-Axle Configurations

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

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

Minimum distance between the centers of the first and last axle is 43 feet.

Maximum gross weight allowed on a 6-axle configuration is 112,000 pounds.

7-Axle Configurations

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

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

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

Single-Tandem-Tandem-Tandem Booster (1-2-2-2)

Minimum distance between the centers of the first and last axle is 55 feet. (Routine Configuration)

Booster Axle (Tandem or Single) requires a minimum distance between the centers of the last trailer axle and the first booster axle:

Minimum of 14'

Maximum of 20'

Minimum distance between the centers of the first and last axle is 69 feet for the Booster Configurations.

Maximum gross weight allowed on a 7-axle configuration is 132,000 pounds.

8-Axle Configurations

Single-Triple-Quad (1-3-4) (Routine Configuration)

Single-Triple-Triple-Single Booster (1-3-3-1)

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

Minimum distance between the centers of the first and last axle is 61 feet. (Routine Configuration)

Booster Axle (Tandem or Single) requires a minimum distance between the centers of the last trailer axle and the first booster axle:

Minimum of 14'

Maximum of 20'

Minimum distance between the centers of the first and last axle is 75 feet for the Booster Configurations.

Maximum gross weight allowed on the 8-axle Routine Configuration is 132,000 pounds.

Maximum gross weight allowed on an 8-axle configuration is 152,000 pounds for Booster Configurations.

9-Axle Configurations

Single-Triple-Quad-Single Booster (1-3-4-1)

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

Booster Axle (Tandem or Single) requires a minimum distance between the centers of the last trailer axle and the first booster axle:

Minimum of 14'

Maximum of 20'

Minimum distance between the centers of the first and last axle is 75 feet.

Maximum gross weight allowed on a 9-axle configuration is 152,000 pounds;

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

1. Single axle—20,000 pounds;
2. Tandem axle group—40,000 pounds but not more than 21,000 pounds for any one (1) axle of a multi-axle group;
3. Triple axle group—60,000 pounds but not more than 21,000 pounds for any one (1) axle of a multi-axle group;
4. Quadrum axle group—60,000 pounds but not more than 16,000 pounds for any one (1) axle of a quadrum axle group; and

(E) Prior to issuing an overweight permit, the equalization system of the axle groups on the power unit and the trailer must be accepted by the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102. Detailed schematic drawings may be requested. It will be the responsibility of the applicant to contact the OD/OW Permit Office for approval or disapproval;

(F) When it is necessary to move specialized equipment, such as mobile cranes, rock crushers, drilling equipment or other equipment which cannot be reasonably reduced in weight to comply with legal weights, consideration will be given for a special permit for these moves. The applicant must first give assurance that the unit has been reasonably reduced in weight and dimension (exclusive of attachments that are an intricate part necessary for the operation of the machine and/or machine adjustments necessary for weight distribution). After the weight has been reduced to a reasonable minimum, a special permit may be issued for weights not to exceed twenty thousand (20,000) pounds or legal weight on a single axle, forty thousand (40,000) pounds on a tandem axle, sixty thousand (60,000) pounds on a triple axle group or sixty thousand (60,000) pounds on a quadrum axle group. Axle and axle groups are defined in subsection (11)(B); and

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

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

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

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

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

If the specialized equipment exceeds the:

1. Allowable weight on an axle or axle group;
2. Gross weight for the number of axles; or
3. Does not meet the required axle spacings for the number of axles the permit request will be considered according to the rules of section (15).

(12) Procedures for Emergency Movements.

(A) Railroad derailments and other civil disasters may create the necessity for an emergency movement by overdimension/overweight vehicles.

(B) Emergency movements into or within the state may be allowed day or night, seven (7) days a week by verbal agreement with one (1) of the following Missouri Department of Transportation representatives: special permit supervisor, motor carrier services administrator, assistant division engineer-bridge maintenance, division engineer-maintenance, assistant chief engineer, chief engineer or director.

(C) An official permit covering each emergency movement must be obtained on the first working day immediately following the move.

(D) Verbal authority for an emergency movement may be granted only after confirmation that an emergency exists by an authorized representative who will be required to furnish information on conditions at the location of the emergency and the name of the company to perform the emergency service.

(E) The Missouri Department of Transportation representative granting authority for an emergency movement will advise the Highway Patrol that the move is authorized and furnish information on the vehicle involved, such as make and license of hauling units, axle weights, load dimensions, location, routes of travel, and the estimated time of the movement. The restriction prohibiting travel at night and holidays or holiday weekend periods will be waived for the initial response to the emergency site.

(F) Permits for return trips may be issued during regular working hours only and each unit must comply with the permit regulations' limitations for weight and dimensions.

(G) Emergency movements are not exempt and will not be waived of the requirement to stop at weigh stations.

(H) Violations are not in the interest of public safety and any misrepresentation in the application, verbal request for a permit, or violation of the terms of the verbal authority for movement may result in denial of future authorizations being granted for an emergency move.

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

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

(K) The permittee shall be responsible for any damage to the roadway surface, shoulders, bridge structures or other highway facilities resulting from his/her operations.

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

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

(13) Regulations for the movement of loads over twelve feet four inches (12'4") to fourteen feet (14') wide. The following requirements in addition to the requirements of overdimension and overweight permit regulations for movement of loads up to twelve feet

four inches (12'4") in width shall apply to all loads over twelve feet four inches (12'4") to fourteen feet (14') in overall width.

(A) Restrictions and Requirements. Bridge crossings may require stopping traffic on two (2)-lane highways where bridge width is less than twenty-eight feet (28'); a distance of at least one thousand feet (1000') between overdimension vehicles is required; escorts may act as flaggers.

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

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

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

(C) Applications and Permits. All permits will be one-way single trip.

(14) Regulations for the movement of loads over fourteen feet (14') to sixteen feet (16') overall width. The following requirements, in addition to the requirements of overdimension and overweight permit regulations for movement of loads up to twelve feet four inches (12'4") in width, shall apply to the movement of allowed loads. Farm products, lumber products, and earth-moving equipment shall not exceed fourteen feet (14') in width.

(A) Routes over which these loads will be considered are highways with pavement at least twenty-four feet (24') wide with at least four foot (4') shoulders and travel on routes of lesser width shall be for the shortest practical distance to complete the move, unless traffic volume, roadway alignment and/or other circumstances justify alternate routing.

1. Travel on interstate and other divided highways allowed from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset, except where restricted in urban areas (see subsection (9)(E)); and movement is limited to Monday through Friday except as prohibited by holiday restrictions (see subsection (1)(I))

2. Movement is further restricted from 6:30 to 9:00 a.m. and 3:30 to 6:00 p.m. on all other routes.

(B) Escort Requirements. One (1) escort is required in the rear on interstate and other divided highways. Two (2) escorts are required on all multi-lane undivided and two (2)-lane highways, one (1) front and one (1) rear. Two-way communication is required between the power unit and all escort vehicles.

(C) Additional Restrictions and Requirements.

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

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

(D) All permits will be one-way single trip.

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

(A) All permit applications with dimensions or weights exceeding the routine limits of the preceding overdimension and overweight permit rule (generally in excess of sixteen feet (16') wide, sixteen feet (16') high, one hundred fifty feet (150') long and/or over one hundred fifty-two thousand (152,000) pounds gross weight) shall be submitted in writing by the applicant to the

Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102. An application for this type of move is available on request. The applicant should allow at least two (2) weeks for a route evaluation. If any problems exist that may prevent the move from reaching its destination over state highways, the application will not be approved;

(B) The applicant may be required to provide a traffic control plan, sketches or additional information for complex moves. One (1) lane for oncoming traffic must be open and clear for two (2)-lane highways and one (1) lane for both oncoming and following traffic must be open on four (4)-lane highways. If open lanes cannot be provided, a detour may be proposed. All super heavy and large load moves shall have a front and a rear escort;

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

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

(E) Generally single axle loads will be limited to twenty-two thousand four hundred (22,400) pounds except the gross weight imposed upon any group of two (2) or more axles should be less than twenty-two thousand four hundred (22,400) pounds per axle if bridge structures are involved in the proposed routing. All axles on the hauling unit must be load carrying with a maximum degree of equalization. The Missouri Department of Transportation shall determine whether or not the hauling unit, number of axles and axle arrangements are acceptable. In all cases the maximum axle loads, gross weight and overall dimensions allowed will be determined by the chief engineer according to section 304.200, RSMo and/or the load carrying capacity of the roadway and structures on the proposed route;

(F) Before and after studies will be conducted of the highways and bridges transversed by the movement, and damage if any, shall be repaired at the expense of the permittee as directed by the Missouri Department of Transportation;

(G) For the purpose of moves under section (15), the applicant must have insurance in the amounts of five hundred thousand dollars (\$500,000) per person and one (1) million dollars per occurrence for bodily injury liability and five hundred thousand dollars (\$500,000) property damage liability or a combined single limit liability amount of one million five hundred thousand dollars (\$1,500,000) before a permit can be issued. The applicant shall provide evidence of such insurance satisfactory to the Missouri Department of Transportation before a permit will be issued; and

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

(16) Noncommercial Building Movement.

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

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

traffic volume is less than five hundred (500) vehicles, per day, movement will be considered up to a distance of three (3) miles on the state highway system.

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

3. The traveled distances listed in paragraphs (16)(A)1. and 2. above reflect the total miles of the move on the state highway system rather than miles allowed to move per attempt. Short segments of the state highway system may be used in a move provided the total mileage allowed on the state highway system is not exceeded. District engineers may consider a longer travel distance if the entire move can be made during periods of lower traffic volumes listed in paragraphs (16)(A)1. and 2. above. Additional restrictions regarding travel during adverse weather conditions are at the discretion of the district engineer or his/her representative.

(B) The allowable overall height, width, length and time of travel shall be based on physical features and traffic volumes along the route. Bridges posted with a maximum weight limit of less than forty (40) tons should be avoided and will be analyzed for the type vehicle and load prior to receiving approval to cross that bridge. All axles on the hauling unit shall be load carrying with a maximum degree of equalization. The Missouri Department of Transportation shall determine whether or not the hauling unit, number of axles and axle arrangements are acceptable. When it is determined a bridge analysis is required, an additional fee will be charged to recover bridge analysis costs. See subsection (4)(E). Loads in excess of sixteen feet (16') in width may require a sketch displaying the side and rear view of the load with dimensions including any overhang.

(C) If the load is over seventeen feet five inches (17' 5") high the applicant shall check all overhead clearance restrictions and provide written documentation from any involved utility company indicating approval to disturb aerial lines across the route. See paragraph (9)(H)3. for escort requirements. If it is necessary to adjust, modify, or remove state owned property such as signal and sign mast arms, flashers, signs, etc. a qualified contractor approved by Missouri Department of Transportation shall be hired by the applicant to perform the necessary adjustment or removal and replacement.

(D) For the purpose of moves under section (16) the applicant must have insurance in the amounts of five hundred thousand dollars (\$500,000) per person and one (1) million dollars per occurrence for bodily injury liability and five hundred thousand dollars (\$500,000) property damage liability or a combined single limit liability amount of one million five hundred thousand dollars (\$1,500,000) before a permit can be issued. The applicant shall provide evidence of such insurance satisfactory to the Missouri Department of Transportation and the insurance shall include the following under Description of Operation: "STRUCTURAL MOVING OPERATIONS OF THE NAMED INSURED INCLUDED IN THIS COVERAGE."

(17) Multi-State Permits.

(A) The Missouri Department of Transportation participates in the Multi-State Permit Program. This program provides a single, routine, uniform mechanism for processing single-trip permits for oversize and overweight vehicle combinations. Such a permit allows a motor carrier to travel through several states with one point of contact and one permit document.

(B) The same rules, regulations and fees apply to Multi-State Permits as any other single trip permit except the permit will be valid for a period of ten (10) calendar days. Also, these permits

can only be obtained to transport loads within current envelope dimensions and weights.

(18) Permit and application forms are available from the Missouri Department of Transportation, Motor Carrier Services Unit, OD/OW Permit Section, 3348 American Drive, P.O. Box 270, Jefferson City, MO 65102 or call (800) 877-8499 or (573) 751-2871.

AUTHORITY: section 304.200, RSMo Supp. 1998. Original rule filed Aug. 11, 1972, effective Aug. 21, 1972. For intervening history, please consult the Code of State Regulations. Emergency rescission and rule filed Nov. 9, 1999, effective Nov. 19, 1999, expires May 16, 2000. Rescinded and readopted: Filed Nov. 9, 1999.

PUBLIC ENTITY COST: This proposed rule is estimated to bear a cost to state agencies or political subdivisions an annualized total of \$7,000 for the life of the rule. See attached fiscal note for assumptions that apply.

PRIVATE ENTITY COST: This proposed rule is estimated to bear a cost to private entities an annualized total of \$137,456 for the life of the rule. See attached fiscal note for assumptions that apply.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publications of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBERTitle: 7 Department of Highways and TransportationDivision: 10 Missouri Highways and Transportation CommissionChapter: 2 Traffic RegulationType of Rulemaking: Proposed RuleRule Number and Name: 7 CSR 10 - 2.010 Overdimension and Overweight Permits**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance
MoDOT	\$7,000

III. WORKSHEET

Estimated Cost of Implementation:

Computer software upgrade = 200 hours @ \$35.00 = \$7,000

IV. ASSUMPTIONS

The number of permits issued for Longer Combination Vehicles will be the same as in 1998.

It is assumed that there will be costs in the future for maintenance of the computer software upgrade. It is assumed that the estimated costs will be \$7,000 annually.

All other changes to the rule should result in cost less than \$500 in the aggregate.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 7 Department Highways and Transportation

Division: 10 Missouri Highways and Transportation Commission

Chapter: 2 Traffic Regulation

Type of Rulemaking: Proposed Rule

Rule Number and Name: 7 CSR 10 -2.010 Overdimension and Overweight Permits

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
14	Larger Freight Carriers	Increased cost of \$137,456

III. WORKSHEET

Permit Cost:

Current 1,562 permits @ \$12 = \$18,744

Proposed 1,562 permits @ \$100 = \$156,200

IV. ASSUMPTIONS

The number of permits issued for Longer Combination Vehicles will be the same as in 1998. All other changes to the rule should result in cost less than \$500 in the aggregate. Other changes in this rule will result in overall uniformity and enhance the transportation industry by allowing movement of 58 foot semi trailers, sludge disposal units, non commercial buildings and multi-state permitting.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.010 Definitions. The commission is amending section (5); adding sections (6), (7), (15), (19), (20), (24) and renumbering sections (6) through (23).

PURPOSE: This amendment provides an informal hearing process for the contractor who received an "unacceptable" annual rating.

(5) Contractor. The individual **proprietorship**, partnership, [corporation, or person or firm] **limited partnership, corporation, limited liability company, limited liability partnership, limited liability corporation or firm of whatever organizational form** participating in a joint venture, undertaking performance of the work under the terms of a contract with the commission and acting directly or through his/her/its agents, employees or subcontractors.

(6) **Contractor performance review committee consists of the following: director of operations, chairperson; director of project development; division engineer, design; division engineer, construction; division engineer, bridge or authorized representative.**

(7) **Contractor representative.** A general partner, officer of a corporation or other proper term depending on the company or organization, as one having authority of position, stated in writing.

[(6)](8) Department. The Missouri Department of Transportation (MoDOT).

[(7)](9) District. One (1) of ten (10) geographic regions of Missouri established for administrative purposes within the department.

[(8)](10) District engineer. The engineer in charge of a district.

[(9)](11) Division, or [d]Division of [c]Construction. The [d]Division of [c]Construction within the department.

[(10)](12) Division engineer. Unless this term is used with reference to another division of the department, it means the division engineer of construction.

[(11)](13) Mean. The sum of all of the individual contractor's ratings divided by the total number of ratings.

[(12)](14) Nonresponsible contractor. A contractor determined by the commission to lack one (1) or more of the qualities associated with a responsible bidder or responsible contractor.

(15) **Notice of rating.** Notice of the rating by the resident engineer in a contractor performance questionnaire or of the annual rating shall be sent by mailing a copy of the contractor performance questionnaire or of a writing containing the annual rating to the contractor at the contractor's address contained in its most recent contractor questionnaire required by the Missouri Standard Specifications for Highway Construction. The department will keep a written record of the persons to whom such notices of ratings were sent and of the address and date they were sent for a period of at least ten (10) years in the case of the contractor performance questionnaire and at least

ten (10) years in the case of the notice of the annual rating, which record shall prove the mailing of the notice of rating. Further, it shall be presumed that a notice of rating sent by mail was received by the contractor on the second day, which is not a Sunday or holiday, after the day the written record states it was sent excepting only if a different date is shown by a delivery receipt of the United States Postal Service.

[(13)](16) Principal. A person is a principal of a firm if s/he is an officer, director, owner, partner or other person with that firm who has primary management, supervisory or bidding duties or authority.

[(14)](17) Resident engineer. The individual employed by the department and assigned to a district, holding that title, who is the department's representative assigned the immediate control and administration of a commission project awarded by contract to a contractor for construction. Whenever appropriate, it also refers to his/her designated representative.

[(15)](18) Responsible bidder or responsible contractor. A contractor, or any contractor or firm which participates collectively in a joint venture, which is capable financially, skilled and has sufficient integrity, experience and resources of all kinds, to promptly complete a project awarded, to provide a satisfactory quality of work, in compliance with the contract, in cooperation with the department and others, and in a safe manner.

(19) **Sample.** A statistical subset of the total number of contractors doing work for MoDOT during the rated year.

(20) **Specialty contractors.** Those contractors who have performed eighty-five percent (85%) or more of their work in one specification area as set forth in Divisions 200-900 in the Missouri Standard Specifications for Highway Construction.

[(16)](21) Standard deviation. The square root of the average difference between the individual ratings and their mean.

[(17)](22) Subcontractor. Any individual, partnership, corporation or a person or firm participating as part of a joint venture, to whom the contractor sublets any part of the work under a commission contract.

[(18)](23) Successor. A person, firm or corporation is a successor to another if it is a business entity organized following the disqualification of the other, and it has the same or similar management, ownership or principal employees as the disqualified person, firm or corporation.

(24) **Weighted average.** The weighted average is the sum of a sample lot's adjusted individual ratings. The adjustment factor is (\$ volume of sample)/(\$ volume of sample lot total).

AUTHORITY: sections 226.020, 227.030 and 227.100, RSMo 1994 and 226.130, RSMo Supp. [1997] 1998. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency amendment filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Amended: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expires May 16, 2000. Amended: Filed Nov. 9, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$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 Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty 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 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.040 Contractor Performance Questionnaire Used in Evaluating Contractor Performance. The commission is amending section (1).

PURPOSE: This amendment provides an informal hearing process for the contractor who received an "unacceptable" annual rating.

(1) The form used to evaluate contractor performance on a commission contract is known as the Contractor Performance Questionnaire. The Contractor Performance Questionnaire identifies the contractor, the project(s) to which it applies, *[the nature of the report as final or annual,]* the original and final contract amounts and other pertinent project data.

AUTHORITY: sections 226.020, 227.030 and 227.100, RSMo 1994 and 226.130, RSMo Supp. [1997] 1998. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expires May 16, 2000. Amended: Filed Nov. 9, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$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 Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty 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 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.050 Procedure and Schedule for Completing the Contractor Performance Questionnaire. The commission is amending sections (3) and (4).

PURPOSE: This amendment provides an informal hearing process for the contractor who received an "unacceptable" annual rating.

(3) Each Contractor Performance Report shall be completed as an Annual Report or Final Report. The report shall indicate its type of report. The following criteria govern each type of report and when it is completed:

(A) Annual Report. Annual reports shall be submitted on all projects that *[are incomplete as of January 1. This report shall be completed no later than January 15 of each year for active contracts. This is an interim report and will be completed based on the information available to the rater at the time] were active during the rated year;* and

(B) *[Final Report. Final reports shall be submitted on all projects completed during the period from January 1 through December 31. All physical work items related to the project shall be complete.]* This report will be *[typically]* completed within thirty (30) days after final project acceptance, but shall be completed no later than January 15~~./~~, **whichever comes first.** Prior reports on the same contract shall not bind or govern the completion of a final report.

(4) The resident engineer shall sign and date the Contractor Performance Questionnaire when s/he completes his/her rating. The contractor's representative, at his/her election, may meet privately with the resident engineer to review the questionnaire. If the contractor's representative does review the questionnaire, s/he shall sign and date it as an acknowledgment that s/he has reviewed it. A copy of the questionnaire shall be furnished to the contractor by the resident engineer. If the contractor's representative does not return a signed questionnaire to the resident engineer within two (2) weeks after it has been mailed to him/her, the questionnaire shall be final, with no further comment to be considered by the contractor's representative. *[If the contractor disagrees with any particular rating on the questionnaire, s/he may request in writing that the district engineer review the matter. Such request must be made to the district engineer within twenty-eight (28) days from the date of the mailing of the questionnaire form to the contractor. However, the contractor's representative shall first have discussed the discrepancy with the resident engineer in order to resolve the dispute. Upon receiving the contractor's written request to review the particular area of discrepancy on the questionnaire, the district engineer shall review the matter and provide the contractor with a written response regarding the particular area of dispute between the contractor and the resident engineer. All reports shall be submitted to the Division of Construction before, but no later than, February 15.]*

AUTHORITY: sections 226.020, 227.030 and 227.100, RSMo 1994 and 226.130, RSMo Supp. [1997] 1998. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expires May 16, 2000. Amended: Filed Nov. 9, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$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 Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publi-

cation 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 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.070 Procedure for Annual Rating of Contractors. The commission is amending sections (1), adding (2), renumbering (2), deleting (3), and amending (4).

PURPOSE: This amendment provides an informal hearing process for the contractor who received an "unacceptable" annual rating.

(1) **Annual Rating of Contractors.** The Division of Construction shall be responsible for the determination of the annual ratings of contractors. The Division of Construction will annually determine a contractor's overall and category performance rating for all contracts on which work was performed during the period, January 1 through December 31. The ratings for the categories **Quality, Safety, and Contract Compliance** will be based on a weighted average of the dollar value of all work completed [of] during the rated year on all contracts. [The rating will use the final report data when it is available and otherwise will use annual reports for contracts in progress.] The category, **Prosecution and Progress**, shall use contract dollar totals for determining the contractor's performance rating.

(2) **Contractor Rating Groups.** For purposes of evaluating contractor performance, contractors shall be divided into two (2) sample groups based upon whether the contractor is a specialty contractor and on the dollar value of the work completed during the rated year.

(A) **Contractor Groups.** Group one contractors shall be the ten (10) contractors who have the largest dollar value of work completed during the rated year. Contractors not included in group one or the specialty contractor group shall be divided in half as group two, medium volume, contractors and group three, light volume, contractors.

1. **Sample lot one.** Sample lot one shall include all contractors belonging in group one contractors and group two, medium volume contractors.

2. **Sample lot two.** Sample lot two shall include all contractors belonging in group three, light volume contractors and specialty contractors.

(B) **Commission Determination of Contractor Groups and Sample Lots.** The commission shall determine all contractor groups and sample lots for the purposes of grouping contractors.

[(2)](3) Upon the division's annual rating of all contractors, the ratings shall be reviewed by the division engineer. Upon the division's approval, [the ratings shall be submitted to the department's chief engineer for final review. Upon approval from the department's chief engineer,] all contractors shall be notified in writing of their annual ratings. The Division of Construction will act on each contractor or not, based on the overall and category rating the contractor receives. These actions may range from recognizing very outstanding performance, to recommending that a contractor be declared nonresponsible.

[(3) **No Further Commission Action.** Upon the determination by the division regarding the annual ratings of all con-

tractors and the approval of the chief engineer of the annual ratings, the ratings of the contractors shall become final for purposes of this chapter and the effect of a level of performance. No commission action is necessary regarding the annual ratings of the contractors.]

(4) [No Appeal. No appeal to the commission or to the department regarding the contractors' performance ratings is permitted under this chapter.] **Review Process.** If the contractor disagrees with any particular response on the questionnaire and cannot resolve the dispute with the resident engineer, s/he may request in writing that the district engineer review the matter. Such request must be made to the district engineer within twenty-eight (28) days from the date of the mailing of the questionnaire form to the contractor. However, the contractor's representative shall first have discussed the questionnaire response with the resident engineer in order to resolve the dispute. Upon receiving the contractor's written request to review the particular area of discrepancy on the questionnaire, the district engineer shall review the matter and provide the contractor with a written response regarding the particular area of dispute between the contractor and the resident engineer. All reports shall be submitted to the Division of Construction before, but no later than, February 15.

(A) **"Unacceptable" Rating.** No request for review to the committee or to the department regarding the contractors' performance ratings is permitted or is provided under this chapter, with the exception of contractors who receive an unacceptable performance rating.

1. The contractor must have received either an unacceptable category or overall performance rating and timely discussed the dispute with the resident engineer and made a timely written request for review by the district engineer of the particular rating on the questionnaire that the contractor disagrees with as provided in this chapter.

2. The contractor shall have ten (10) working days to request an informal hearing to review an unacceptable performance rating.

3. The contractor shall submit its request for an informal hearing to the following address: Missouri Department of Transportation, Division of Construction, P.O. Box 270, Jefferson City, MO 65102.

(B) **Procedure.** If the contractor timely requests an informal hearing, the review committee shall advise the contractor of the time, date and place. This is not a contested case under Chapter 536, RSMo. The rules of evidence shall not apply at the hearing.

(C) **Review by the Contractor Performance Review Committee.** The contractor performance review committee will review the contractor's request and make a recommendation to the chief engineer. The chief engineer's decision regarding the contractor's rating, review of which is held as provided by this section, shall be final and no further commission action is necessary.

(5) **No Further Commission Action.** As to contractor performance ratings of which no review is requested or permitted under this rule, upon the determination by the division regarding the annual ratings of all contractors and the approval of the chief engineer of the annual ratings, the ratings of the contractors shall become final for purposes of this chapter and the effect of a level of performance. No commission action is necessary regarding the annual ratings of the contractors.

AUTHORITY: sections 226.020, 227.030 and 227.100, RSMo 1994 and 226.130, RSMo Supp. [1997] 1998. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998.

Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expires, May 16, 2000. Amended: Filed Nov. 9, 1999.

PUBLIC ENTITY COST: This proposed amendment is estimated to cost state agencies or political subdivisions approximately \$720 per annum.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$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 Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 7 - Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter 10 -Contractor Performance Rating to Determine Responsibility

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 7 CSR 10-10.070 Procedure for Annual Rating of Contractors

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
MoDOT - Contractor Performance Review Committee	Increased cost of \$720

III. WORKSHEET

Review Committee Cost:

4 hours for 5 committee members estimated to be \$720 combined.

5 members X 4 hours X approximate \$75,000 per year salary / member / 2080 hours / year

IV. ASSUMPTIONS

Twelve (10) contractors received "unacceptable" ratings in 1998. An estimated one-fourth of the number would have followed the appeal process and would have additional information to present to the review committee. An estimated four (4) hours are required for the review committee to hear and act on appeals from contractors who have been identified as "unacceptable" performers, have complied with the appeal process to that point, and have additional information to present that may change their rating.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities**

PROPOSED RULE

11 CSR 45-10.150 Child Care Facilities—License Required

PURPOSE: This rule assures that child care facilities offered on property owned by Class A licensees are properly licensed and regulated for health and safety.

(1) Any Class A licensee that provides, either directly or indirectly, a child care facility that is determined by the commission to be within or adjacent to the structure housing its excursion gambling boat or within or adjacent to the structure serving as the boarding area for its excursion gambling boat, shall require that such child care facility is licensed by the Missouri Department of Health. For the purposes of this regulation, a child care facility is defined as—

(A) "Child care facility," a place operated or maintained by any person who provides care for children.

(2) A Class A licensee is deemed to be a direct or indirect provider of a child care facility if—

(A) The licensee provides care for children through its agents or employees;

(B) The licensee contracts with another person to provide care for children;

(C) The licensee leases space to a person who provides care to children; or

(D) The licensee is notified by the commission that it is directly or indirectly providing a child care facility.

(3) Class A licensees that enter into contracts with a person(s) who provides a child care facility or who lease space to a person(s) who provides a child care facility, shall include provisions in the contract or lease which allow the licensee to terminate the contract or lease if the child care facility provider's license from the Missouri Department of Health is suspended, revoked or fails to be maintained in good standing.

(4) Failure to comply with the provisions of this rule is grounds for discipline pursuant to 11 CSR 45-13.050.

AUTHORITY: sections 313.805 and 313.812, RSMo 1994. Emergency rule filed Dec. 1, 1999, effective Dec. 11, 1999, expires June 7, 2000. Original rule filed Dec. 1, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will cost private entities or political subdivisions more than \$500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. A public hearing is scheduled for February 8, 2000 at 10:00 a.m. in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 10 - Licensees Responsibilities

Type of Rulemaking: Proposed Rule

Rule Number and Name: 11 CSR 10.150 - Child Care Facilities - License Required

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
2 operators of child care facilities	Operators of child care facilities located within or adjacent to the structure housing a riverboat casino	Ranges from a one time cost of less than \$1,000 to \$30,000 per year, depending on circumstances and rulings from the Dept. of Health

III. WORKSHEET

Because of the small number of entities affected, the Commission contacted each of them directly to request cost estimates. The results are contained under the Assumptions section below.

IV. ASSUMPTIONS

Kids Quest, which operates a child care facility at Kansas City Station believes that it meets or exceeds all licensing requirements and estimates that the cost of licensing to be minimal. It reports that minor equipment purchases may be necessary and there will be some cost associated with time spent with Department of Health licensing personnel.

Planet 4 Kidz, which operates a child care facility at Harrah's Riverport Casino complex, estimates that if it can fit into a licensing category that does not require an educational director, the cost will be less than \$500. If it is necessary to hire an educational director the cost is estimated to be between \$26,000 and \$30,000 per year. However, some of this cost may be deferred by having the educational director also serve as the facility director.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers [and Chief Executive Officers]**

PROPOSED AMENDMENT

11 CSR 75-3.010 Certification. The commission is amending section (2).

PURPOSE: Removal of the CEO certification designation will result in all individuals participating in primary law enforcement activities to possess a valid peace officer certification, obtained through completion of basic training or reciprocity.

(2) There is established a basic certificate and a reserve officer certificate to grant certification to bailiffs, peace officers and reserve officers in recognition of completion of the applicable basic training requirements and a special certificate to grant certification to bailiffs, peace, and reserve [and chief executive] officers in recognition of their prior experience, training or other education that qualifies them for a waiver of the basic training requirements.

AUTHORITY: section 590.135, RSMo [Supp. 1993] Supp. 1998. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. Rescinded and readopted: Filed April 12, 1989, effective June 29, 1989. Emergency rescission and rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Rescinded and readopted: Filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers [and Chief Executive Officers]**

PROPOSED AMENDMENT

11 CSR 75-3.020 Eligibility for Certification. The commission is amending section (9).

PURPOSE: Removal of the CEO certification designation will result in all individuals participating in primary law enforcement activities to possess a valid peace officer certification, obtained through completion of basic training or reciprocity.

(9) Each applicant for peace or reserve officer certification who has a current date of employment or **appointment** as of August 28, 1994, and is located within a county of the third class shall be required to have no more or less than one hundred twenty (120) hours of certified basic training for certification if the respective city or county adopts an order or ordinance to that effect.

AUTHORITY: sections 590.105, RSMo [Supp. 1997] Supp. 1998 and 590.110, 590.130 and 590.150, RSMo 1994. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. Rescinded and readopted: Filed April 12, 1989, effective June 29, 1989. Amended: Filed Aug. 30, 1991, effective Jan. 13, 1992. Emergency rescission and rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Rescinded and readopted: Filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Oct. 15, 1997, effective April 30, 1998. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers [and Chief Executive Officers]**

PROPOSED AMENDMENT

11 CSR 75-3.030 Requirements for and Terms of Certification. The commission is amending subsections (1)(A), (E) and (F) and section (2) and removing forms following the rule in the *Code of State Regulations*.

PURPOSE: Removal of the CEO certification designation will result in all individuals participating in primary law enforcement activities to possess a valid peace officer certification, obtained through completion of basic training or reciprocity.

(1) Requirements for Certification.

(A) The director or his/her designated representatives shall certify and grant a basic certificate to bailiffs, peace officers, and reserve officers who have completed the applicable basic training course and have complied with all applicable Peace Officer Standards and Training (POST) rules or a special certificate to bailiffs, peace officers, and reserve officers [and chief executive officers (CEOs)] who have acquired prior experience, completed other training or education, or a combination of these, in accordance with the Act or which the POST Commission determines to be acceptable as a substitute for the basic training requirement. The basic certificate shall specify the number of hours of basic training completed. The special certificate shall specify the experience acquired or other training or education completed in lieu of basic training.

(E) On or after August 28, 1996, individuals graduating from a POST certified training center and meeting the certification requirements of sections 590.100-590.180, RSMo, shall be issued certification to be eligible for employment as a Missouri peace officer.

1. Starting August 28, 1996, the training center director shall insure that each individual entering a basic training course meets the POST mandated training center entry requirements. The training center director shall complete a POST Certification/Information Form (I-1T), on each student attending basic training, and attach the following:

A. The results of a criminal background check by the Missouri State Highway Patrol and from the state of residency;

B. Proof of United States citizenship;

C. A copy of high school diploma or its equivalent; and

D. Proof that the applicant is at least eighteen (18) years of age at the beginning of the basic training course.

2. Applicant must be twenty-one (21) years of age at the time certification is issued. If the period of time from training center graduation and his/her twenty-first birthday is greater than ninety (90) days then a criminal background check by the Missouri State Highway Patrol will need to be submitted to Department of Public Safety before certification will be granted.

3. If the individual has a criminal history or the training center director has information that the applicant has committed gross misconduct indicating inability to function as a peace officer, POST approval must be obtained before the applicant may attend the basic training course. Any denial of entry to a POST certified training center shall be in accordance with section 590.135, RSMo.

4. Within thirty-five (35) days prior to the completion of the basic training course the completed Certification/Information Form and supporting documentation will be sent to POST by the training center director. Late applicants shall not be issued certification until the completed Certification/Informational Form and supporting documentation is received and processed by POST. The training center director shall advise the late applicant before admission, in writing, that if the applicant has committed acts in violation of section 590.135, RSMo, s/he shall be dismissed from the academy and/or shall not be certified by POST.

5. The graduate will receive the POST Certification Certificate upon successful completion of the basic training course. The certificate will be distributed by the training center director. The training center director shall return to POST all POST Certification Certificates of those individuals not graduating.

6. Individuals other than recruits in training centers shall apply directly to the POST Program for certification using the POST Certification Information Form 1-R (see 11 CSR 75-1.010), that is, officers seeking reciprocity from other states, federal law enforcement officers seeking Missouri certification, Missouri certified peace officers seeking a higher level of certification, or officers whose certification has expired applying for peace officer certification.

7. These officers must successfully pass the Missouri Certification Examination to become certified peace officers. Eligibility for examination shall be based on comparable pre-employment education as determined by points given for hours of basic training, years of service as a full-time certified peace officer or federal law enforcement officer, advanced degrees, or hours of documented law enforcement continuing education. Ten to fifteen (10-15) points allows a candidate to take the examination and upon passing same becomes certified. Sixteen (16) points or more allows a candidate to take the examination and upon passing, the candidate would become certified for employment in first class charter counties.

8. Candidates who do not have one (1) year of continuous service as a full-time certified peace officer or federal law enforcement officer, or who have less than one hundred twenty (120) hours of basic training are not eligible for examination. Candidates who do not have one (1) year of continuous service as a full-time certified peace officer, but have had significant experience as a certified reserve officer, may appeal to the commission for eligibility of examination//; however, no points shall be awarded for years of experience. Candidates trained and certified at less than three hundred (300) hours, after August 28, 1994, or four hundred and seventy (470) hours, after August 28, 1996, shall not be eligible for examination. For the purposes of this rule, the terms defined have the following meanings given to them:

A. "Basic training" means training recognized by a state council, state commission, state board, or state agency that leads to licensing or basic certification as a peace officer, or any portion of a basic recruit training course recognized by the federal government for its law enforcement officers, which falls within the core curricula areas of the Missouri four hundred seventy (470)-hour or six hundred (600)-hour basic training course;

B. "Years of experience" means the total number of years the applicant has been employed as a peace officer or federal law enforcement officer, including at least one (1) year of continuous employment as a peace officer or federal law enforcement officer, and who has not had a peace officer certification, license, or the federal equivalent suspended or revoked;

C. "Advanced degree" means an academic degree including: associates degree, bachelors degree, masters degree and doctorate, awarded by an accredited college or university; and

D. "Continuing education" means properly documented training which occurs after employment, used to refresh, expand or supplant basic training.

9. Eligibility for examination is determined by the number of points as follows:

A. Basic training—

120 hours to 299 hours of basic training, 3 points

300 hours to 469 hours of basic training, 5 points

470 hours to 599 hours of basic training, 8 points

600 hours or more of basic training, 14 points

B. Years of experience—

1 year and 1 day to 3 years experience, 2 points

3 years and 1 day to 4 years experience, 3 points

4 years and 1 day to 5 years experience, 4 points

5 years and 1 day to 10 years experience, 5 points

10 years and 1 day to 15 years experience, 6 points

15 years and 1 day to 20 years experience, 7 points

20 years and 1 day or more experience, 8 points

C. Advanced degree—

Associates degree, 1 point

Bachelors degree, 2 points

Masters degree, 3 points

Doctorate degree, 4 points

D. Continuing education—

Achieved 16 continuing education hours for each calendar year of service, 1 point

Achieved 32 continuing education hours for each calendar year of service, 2 points

E. Additional training—

Graduate of the Federal Bureau of Investigation (FBI) National Academy or its equivalent as determined by the director for every 100 contact/training hours, 1 point.

10. Candidates eligible for examination shall be required to pass the Missouri Certification Examination and any associated practical exercises, as a condition for certification. Candidates who fail to pass the examination may apply for re-examination after no less than thirty (30) days from notification of failure.

11. Candidates who fail the examination three (3) times shall be required to complete an applicable certified basic training course and pass the examination to become certified.

(F) In addition to the requirements for certification set forth in subsections (1)(D) and (E), further requirements for and restrictions upon bailiffs, peace officers, **and** reserve officers *[and CEOs]* certification are as follows:

1. A peace officer of St. Charles, St. Louis or Jackson County or of any municipality within St. Louis or Jackson County who was appointed or employed by the current department before December 31, 1978, or St. Charles County before January 1, 1993, is exempt from training and certification requirements; however, that officer may be granted certification upon the completion of an approved six hundred (600)-hour or more basic training course. St. Louis City Sheriff's Department deputies do not have powers of arrest and are both exempt from and ineligible for certification as peace officers but still must complete one hundred twenty (120) hours of basic training;

2. A peace officer of St. Charles, St. Louis or Jackson County or of any municipality within St. Charles, St. Louis or Jackson County who was appointed or employed by the current department after December 31, 1978, or St. Charles County as of January 1, 1993, must become certified by completing within one (1) year of the date of appointment or employment an approved six hundred (600)-hour or more basic training course. This does not apply to elected county sheriffs or to St. Louis City Sheriff's Department deputies. St. Louis City Sheriff's Department deputies do not have power of arrest and are ineligible for certification as peace officers but still must complete one hundred twenty (120) hours of basic training;

3. A peace officer of any county except St. Charles, St. Louis or Jackson County or of any municipality in any county other than St. Louis or Jackson County who was appointed or employed by the current department before December 31, 1978, or except St. Charles County before January 1, 1993, is exempt from training and certification requirements; however, that officer may be granted certification upon completion of an approved one hundred twenty (120)-hour or more basic training course;

4. A peace officer of any county except St. Charles or of any municipality in any county other than St. Louis or Jackson County after December 31, 1978, or St. Charles County prior to January 1, 1993, must become certified by completing a one hundred twenty (120)-hour or more basic training course. This does not apply to elected county sheriffs;

5. A peace officer of any county except St. Louis or Jackson County or of any municipality in any county other than St. Louis or Jackson County who was appointed or employed by the current department after December 31, 1978 until August 27, 1996, must become certified by completing within one (1) year of the date of appointment or employment an approved one hundred twenty (120)-hour or more basic training course. On or after August 28, 1996, any peace officer must be certified before appointment or employment by completing an approved four hundred seventy (470)-hour or more basic training course. Peace officers of agencies exempted under section 590.105(6), RSMo must complete a one hundred twenty (120)-hour or more basic training course before appointment of employment. This does not apply to elected county sheriffs;

6. An elected county sheriff is exempt from certification requirements; however, that officer must complete within eighteen (18) months of election to office an approved one hundred twenty (120)-hour or more training program. An elected county sheriff who has met this requirement may be granted certification;

7. A peace officer with any state agency, other than the State Highway Patrol, who was appointed or employed by the current agency before December 31, 1978, is exempt from training and certification requirements; however, that officer may be granted certification upon completion of an approved three hundred (300)-

hour or more basic training course, and on or after August 28, 1996, an approved four hundred seventy (470)-hour or more basic training course;

8. A peace officer of any state agency, other than the State Highway Patrol, who was appointed or employed by the current department after December 31, 1978, must become certified by completing an approved three hundred (300)-hour or more basic training course, and on or after August 28, 1996, an approved four hundred seventy (470)-hour or more basic training course. Persons employed by the Missouri Department of Conservation, and certified after January 30, 1996, must complete an approved one thousand (1,000)-hour or more basic training course. On or after August 28, 1996, a person employed by the Department of Conservation shall complete the basic training course before becoming certified.

9. A peace officer who is a member of the State Highway Patrol and who was appointed or employed by the State Highway Patrol before December 31, 1978, is exempt from training and certification requirements; however, that officer may be granted certification upon the completion of the State Highway Patrol's basic recruit training course for state patrol officers;

10. A peace officer of the State Highway Patrol who was appointed or employed by the State Highway Patrol after December 31, 1978, must become certified by completing within one (1) year of the date of appointment or employment the State Highway Patrol's basic recruit training course for state patrol officers. After January 1, 1990, the approved basic recruit course shall be at least one thousand (1,000) hours or more. On or after August 28, 1996, a person employed by the State Highway Patrol shall complete the approved basic recruit course before becoming certified.

11. A reserve officer of St. Charles, St. Louis or Jackson County or of any municipality in St. Charles, St. Louis or Jackson County who was appointed or employed by the current department before August 15, 1988, for Jackson and St. Louis County and before January 1, 1993, for St. Charles County is exempt from training and certification requirements; however, that officer may be granted certification upon completion of an approved six hundred (600)-hour basic training course prior to August 15, 1988, reserve officers within St. Louis and Jackson County upon evidence of having completed or acquired at least two hundred forty (240) hours of other approved training or at least ten (10) years of continuous experience as a peace or reserve officer or an equivalent combination of other approved training and experience as determined by the POST Commission;

12. A reserve officer of St. Charles, St. Louis or Jackson County or of any municipality in St. Charles, St. Louis or Jackson County who was appointed or employed by the current department after August 15, 1988, by St. Louis or Jackson County or after January 1, 1993, by St. Charles County, is exempt from training and certification requirements; however, that officer may be granted certification by completing an approved six hundred (600)-hour or more basic training course;

13. St. Louis City Sheriff's Department deputies do not have power of arrest and are both exempt from and ineligible for certification as reserve officers;

14. A reserve officer of any county except St. Louis or Jackson County or of any municipality in any county other than St. Louis or Jackson County who was appointed or employed by the current department before August 15, 1988, is exempt from training and certification requirements; however, that officer may be granted certification upon completion of an approved one hundred twenty (120)-hour or more basic training course or upon evidence of having completed or acquired at least one hundred twenty (120) hours of other approved training or at least ten (10) years of continuous experience as a peace or reserve officer or an equivalent combination of other approved training and experience as determined by the POST Commission;

15. A reserve officer of any county except St. Charles, St. Louis or Jackson County or of any municipality in any county other than St. Charles, St. Louis or Jackson County who was appointed or employed by the current department prior to August 15, 1988, for St. Louis or Jackson County or after January 1, 1993, for St. Charles County is exempt from three hundred (300)-hour training and certification requirements; however, that officer may be granted certification upon completion of an approved basic training course;

16. A reserve officer of any county except St. Charles, St. Louis or Jackson County or of any municipality in any county other than St. Charles, St. Louis or Jackson County who was appointed or employed by the current department after August 28, 1994, is exempt from training and certification requirements; however, that officer may be granted certification by completing an approved three hundred (300)-hour or more basic training after August 28, 1994, then four hundred seventy (470) hours after August 28, 1996; **and**

17. A reserve officer of any state agency other than the State Highway Patrol is exempt from training and certification requirements; however, that officer may be granted certification upon completion of an approved three hundred (300)-hour or more basic training course as of August 28, 1994, then four hundred fifty (450) hours as of August 28, 1996;

[18. A CEO of any county or of any municipality in St. Charles, St. Louis or Jackson County who was appointed or employed by the current department before December 31, 1978, for St. Louis and Jackson County or before January 1, 1993, for St. Charles County or before August 15, 1988, is exempt from training and certification requirements; however, that officer may be granted certification upon the completion of an approved six hundred (600)-hour or more basic training course or upon evidence of having completed other training or acquired experience equivalent to the applicable basic training course or upon proof of graduation from the Federal Bureau of Investigation (FBI) National Academy or its equivalent or upon proof of holding a bachelor of science degree in criminal justice or a related field or a doctor of jurisprudence degree;

19. A CEO of any county or of any municipality in any county other than St. Charles, St. Louis or Jackson County who was appointed or employed by the current department before December 31, 1978, for St. Louis or Jackson County or before January 1, 1993, for St. Charles County is exempt from training and certification requirements; however, that officer may be granted certification upon completion of an approved three hundred (300)-hour or more basic training course or upon evidence of having completed other training or acquired experience equivalent to the applicable basic training course or upon proof of graduation from the FBI National Academy or its equivalent or upon proof of holding a bachelor of science degree in criminal justice or a related field or a doctor of jurisprudence degree;

20. A CEO of any county or of any municipality in St. Charles, St. Louis or Jackson County who was appointed or employed by the current department after December 31, 1978, for St. Louis and Jackson County or after January 1, 1993, in St. Charles County must become certified by completing within one (1) year of the date of appointment or employment an approved six hundred (600)-hour or more basic training course or upon evidence of having completed training or acquired experience equivalent to the applicable basic training course or upon proof of graduation from the FBI National Academy or its equivalent or upon proof of holding a bachelor of science degree in criminal justice or a related field or a doctor of jurisprudence degree;

21. A CEO of any county or of any municipality in any county other than St. Charles, St. Louis or Jackson County who was appointed or employed by the current department after December 31, 1978, for St. Louis and Jackson County or after January 1, 1993, for St. Charles County must become certified within one (1) year of the date of appointment or employment by completing an approved three hundred (300)-hour or more basic training course or upon evidence of having completed other training or acquired experience equivalent to the applicable basic training course or upon proof of graduation from the FBI National Academy or its equivalent or upon proof of holding a bachelor of science degree in criminal justice or a related field or a doctor of jurisprudence degree;

22. A CEO of any state agency other than the State Highway Patrol who was appointed or employed by the current agency before December 31, 1978, is exempt from training and certification requirements; however, that officer may be granted certification upon completion of an approved three hundred (300)-hour or more basic training course or upon evidence of having completed other training or acquired experience equivalent to the applicable basic training course or upon proof of graduation from the FBI National Academy or its equivalent or upon proof of holding a bachelor of science degree in criminal justice or a related field or a doctor of jurisprudence degree; and

23. A CEO of any state agency other than the State Highway Patrol who was appointed or employed by the agency after December 31, 1978, must become certified within one (1) year of the date of appointment or employment by completing an approved three hundred (300)-hour or more basic training course or upon evidence of having completed other training or acquired experience equivalent to the applicable basic training course or upon proof of graduation from the FBI National Academy or its equivalent or upon proof of holding a bachelor of science degree in criminal justice or a related field or a doctor of jurisprudence degree.]

(2) Terms of Certification.

(A) Once certified as a bailiff, peace officer, or reserve officer [or CEO], the individual shall be considered as being in permanent and full compliance with the minimum requirements for active certification as set forth in the Act and POST rules unless or until any of the following occur:

1. A peace officer[, or certified reserve officer[, or CEO] who holds either active basic certification or active special certification may transfer laterally from one (1) agency to another unless the training requirement for the new agency is higher than that required by the previous agency in which case the certification status will be void;

2. The certification status of a reserve officer who holds either active basic certification or active special certification and leaves law enforcement will be inactive. The certification may be reactivated if the reserve officer becomes appointed or employed with another law enforcement agency, unless the training requirement with the new agency is higher than that required by the previous agency in which case the certification status will be inactive;

3. A reserve officer who held active basic certification may change position to that of a peace officer, unless the training requirement for the new agency is higher than that required by the previous agency in which case the certification will be inactive;

4. The certification status of a reserve officer who changes position to that of a peace officer and who held active special certification as a reserve officer will be void;

[5. A CEO who holds an active special CEO certification may transfer laterally from one (1) agency to another unless the training requirement for the new agency is higher than

that required for the previous agency in which case the certification status will be inactive;

6. An individual who holds an active special CEO certification may change position to that of a peace officer, unless the training requirement for the new agency is higher than that for the previous agency in which case the certification status will be inactive;]

[7.] 5. The certification status of a peace officer[,] or reserve officer [or CEO] who holds active basic or active special certification will not be affected during any period of official state or federal military leave of absence; [and]

[8.] 6. The certification status of a peace officer[,] or reserve officer [or CEO] who holds active basic or active special certification will not be affected during any period where the certified officer in question has left state, county or municipal law enforcement to occupy a position as a federal law enforcement officer or other federal position as long as this position carries with it the federal power of arrest[.]; and

[9.]7. Court marshals and deputy court marshals certified pursuant to sections 590.100 to 590.180, RSMo, under the supervision and control of the supreme court, district court of appeal or a circuit court, and appointed pursuant to section 476.062, RSMo, shall be considered actively employed for such periods of appointment as a court marshal or deputy court marshal, for the purpose of maintaining peace officer certification, providing that the appointing court, or its designate, has properly notified the peace officer standards and training program of the employment and departures of court marshals and deputy court marshals, using the appropriate forms as determined by the rule.

AUTHORITY: sections 590.120 and 590.135, RSMo [Supp. 1997] Supp. 1998. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers [and Chief Executive Officers]**

PROPOSED AMENDMENT

11 CSR 75-3.050 Waivers for Equivalent Training and/or Experience. The commission is amending (1)(A), deleting (1)(E) and relettering (1)(F).

PURPOSE: Removal of the CEO certification designation will result in all individuals participating in primary law enforcement activities to possess a valid peace officer certification, obtained through completion of basic training or reciprocity.

(1) Waivers for Equivalent Training, Experience, or Both.

(A) As provided under 11 CSR 75-3.020, the director or his/her designated representatives may grant special certification to bailiffs, peace officers, and reserve officers [and chief executive officers (CEOs)] as a waiver of the completion of the otherwise required basic training course upon presentation of documentary evidence that an officer has both previous experience and has satisfactorily completed equivalent training in the director's or his/her designated representatives' opinion as set forth by the Act.

[(E) The director or his/her designated representatives may grant a special certificate for a CEO who has not successfully completed the otherwise required applicable basic training course if the CEO's employer furnishes the director with documentary evidence that the CEO has training or experience equivalent to the standards set forth in section 590.115, RSMo or is a graduate of the Federal Bureau of Investigation (FBI) National Academy or its equivalent as determined by the director, or holds a bachelor of science degree in criminal justice or a related field received from an accredited college or university or a doctorate of jurisprudence degree received from a college or university approved by the American Bar Association.]

[(F)] (E) The director or his/her designated representatives are authorized to enter into standing contracts or agreements with those states which by law regulate and supervise the quality of peace officer training.

AUTHORITY: section 590.110, RSMo 1994. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. Amended: Filed April 1, 1983, effective Aug. 11, 1983. Rescinded and readopted: Filed April 12, 1989, effective June 29, 1989. Amended: Filed Aug. 30, 1991, effective Jan. 13, 1992. Amended: Filed March 2, 1992, effective Aug. 6, 1992. Amended: Filed Aug. 11, 1995, effective March 30, 1996. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers [and Chief Executive Officers]**

PROPOSED AMENDMENT

11 CSR 75-3.060 Bailiff, Peace Officer, and Reserve Officer [and Chief Executive Officer] Certification. The commission is amending subsection (1)(A) and the Purpose.

PURPOSE: Removal of the CEO certification designation will result in all individuals participating in primary law enforcement activities to possess a valid peace officer certification, obtained through completion of basic training or reciprocity.

PURPOSE: This rule sets forth the process of certification as a bailiff, peace officer, or reserve officer [or chief executive officer].

(1) General Procedures.

(A) The Peace Officer Standards and Training (POST) Notification of Employment/Appointment (see 11 CSR 75-1.010) shall be completed by the applicant or his/her chief executive officer (CEO) and forwarded, with any required attachments, within thirty (30) days of the appointment of any bailiff, peace officer, or reserve officer [or CEO]. On or after August 28, 1996, upon hiring a certified peace officer or reserve officer, the CEO shall notify POST of the employment or appointment, with any required documents within thirty (30) days of the appointment of any certified peace officer[,] or reserve officer [or CEO], to the Missouri Department of Public Safety, Peace Officer Standards and Training Program, P.O. Box 749, Jefferson City, MO 65102.

AUTHORITY: sections 590.110, RSMo 1994, and 590.115 and 590.120, RSMo [Supp. 1997] Supp. 1998. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. Rescinded and readopted: Filed April 12, 1989, effective June 29, 1989. Amended: Filed March 2, 1992, effective Aug. 6, 1992. Emergency rescission and rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Rescinded and readopted: Filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Aug. 11, 1995, effective March 30, 1996. Amended: Filed Dec. 3, 1996, effective June 30, 1997. Amended: Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program**

**Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers [and Chief Executive Officers]**

PROPOSED AMENDMENT

11 CSR 75-3.070 Request for Individual Qualification Evaluation—Procedures. The commission is amending the Purpose.

PURPOSE: Removal of the CEO certification designation will result in all individuals, participating in primary law enforcement activities, to possess a valid peace officer certification, obtained through completion of basic training or reciprocity.

PURPOSE: This rule defines the process for individual review of qualifications for certification eligibility purposes as a bailiff, peace officer, or reserve officer [or CEO].

AUTHORITY: sections 590.110, RSMo 1994 and 590.120, RSMo Supp. 1998. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. Rescinded and readopted: Filed April 12, 1989, effective June 29, 1989. Emergency rescission and rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Rescinded and readopted: Filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Aug. 11, 1995, effective March 30, 1996. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program**

**Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers [and Chief Executive Officers]**

PROPOSED AMENDMENT

11 CSR 75-3.080 Suspension and Revocation of the Certification of a Bailiff, Peace Officer, or Reserve Officer [or Chief Executive Officer]. The commission is amending the Purpose and section (2).

PURPOSE: Removal of the CEO certification designation will result in all individuals participating in primary law enforcement activities to possess a valid peace officer certification, obtained through completion of basic training or reciprocity.

PURPOSE: This rule defines the terms, the process and the administration of the suspension or revocation of bailiff, peace officer, and reserve officer [and chief executive officer] certification.

(2) Guidelines for Suspension and Revocation of a Bailiff, Peace Officer, and Reserve Officer [and Chief Executive Officer (CEO)] Certification.

AUTHORITY: section 590.120, RSMo [1994] Supp. 1998. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. Rescinded and readopted: Filed April 12, 1989, effective June 29, 1989. Amended: Filed Aug. 30, 1991, effective Jan. 13, 1992. Emergency rescission and rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Rescinded and readopted: Filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Aug. 11, 1995, effective March 30, 1996. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 10—Peace Officer Standards and Training
Commission Fund**

PROPOSED AMENDMENT

11 CSR 75-10.010 General Organization of Peace Officer Standards and Training (POST) Commission Fund. The commission is amending section (1).

PURPOSE: Chapter 10 established the POST Commission Fund for the purpose of training individuals employed by a law enforcement agency. Since current state statutes require an individual to possess peace officer certification before employment, the proposed changes remove language authorizing payment for basic law enforcement training.

- (1) The fund is to provide for the cost of training that meets the—
[[A)] *Basic Core Curricula;*
[[B)] (A) Continuing Law Enforcement Education; and
[[C)] (B) Training of other law enforcement personnel.

AUTHORITY: sections 590.120, RSMo Supp. 1998, 590.140, RSMo Supp. 1999 and 590.178, RSMo [Supp. 1993] 1994. Emergency rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Original rule filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 10—Peace Officer Standards and Training
Commission Fund**

PROPOSED AMENDMENT

11 CSR 75-10.020 Source of Funds—Terms and Conditions. The commission is amending the Purpose, deleting section (1) and renumbering section (2).

PURPOSE: Chapter 10 established the POST Commission Fund for the purpose of training individuals employed by a law enforcement agency. Since current state statutes require an individual to possess peace officer certification before employment, the proposed changes remove language authorizing payment for basic law enforcement training.

PURPOSE: This rule specifies that any [state,] county or municipal law enforcement agency may be eligible for reimbursement for cost incurred to provide training as mandated in sections 590.100–590.180, RSMo.

[[1)] Provide to the Peace Officer Standards and Training (POST) Commission a notarized copy of the ordinance or order enacted by that governing body of the law enforcement agency demonstrating that the agency's intent is to collect and contribute to the POST Commission Fund.]

[[2)](1) Checks written from monies collected for the POST Fund are to be written to the Treasurer, State of Missouri and mailed to the Budget Director, Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102 by the fifteenth of each month.

AUTHORITY: sections 590.120, RSMo Supp. 1998 and 590.140, RSMo Supp. 1999 and 590.178, RSMo [Supp. 1993] 1994. Emergency rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Original rule filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 10—Peace Officer Standards and Training
Commission Fund**

PROPOSED AMENDMENT

11 CSR 75-10.030 Eligible Applicants. The commission is amending section (1).

PURPOSE: Chapter 10 established the POST Commission Fund for the purpose of training individuals employed by a law enforcement agency. Since current state statutes require an individual to possess peace officer certification before employment, the proposed changes remove language authorizing payment for basic law enforcement training.

(1) Any public law enforcement agency operating under Chapter 590, RSMo that contributes to the Peace Officer Standards and Training (POST) Commission Fund is eligible [to apply] for reimbursement from the fund provided that—

[[A)] An ordinance or order has been passed by the political subdivision, and that POST has a dated copy;]

[(B)] (A) One dollar (\$1) is being assessed for each applicable violation (per each two dollars (\$2) collected); and

[(C)] (B) The dollars are being sent to the state of Missouri; and].

[(D) The political subdivision has been participating for a minimum of ninety (90) days.]

AUTHORITY: sections 590.120, RSMo Supp. 1998 and 590.140, RSMo Supp. 1999 and 590.178, RSMo 1994. Emergency rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Original rule filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Aug. 11, 1995, effective March 30, 1996. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 10—Peace Officer Standards and Training
Commission Fund**

PROPOSED AMENDMENT

11 CSR 75-10.040 Eligible Training. The commission is amending section (1).

PURPOSE: Chapter 10 established the POST Commission Fund for the purpose of training individuals employed by a law enforcement agency. Since current state statutes require an individual to possess peace officer certification before employment, the proposed changes remove language authorizing payment for basic law enforcement training.

(1) The fund may be used to pay for the following training or a part thereof:

[(A) Basic Law Enforcement Training;]

[(B)](A) Continuing Law Enforcement Education; and

[(C)](B) Courses approved by the Peace Officer Standards and Training (POST) Commission.

AUTHORITY: sections 590.120, RSMo Supp. 1998 and 590.140 RSMo Supp. 1999 and 590.178, RSMo [Supp. 1993] 1994. Emergency rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Original rule filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 10—Peace Officer Standards and Training
Commission Fund**

PROPOSED AMENDMENT

11 CSR 75-10.050 Ineligible Training. The commission is amending subsection (1)(C).

PURPOSE: Chapter 10 established the POST Commission Fund for the purpose of training individuals employed by a law enforcement agency. Since current state statutes require an individual to possess peace officer certification before employment, the proposed changes remove language authorizing payment for basic law enforcement training.

(1) The Peace Officer Standards and Training (POST) Commission Fund shall not be used for—

(C) A trainee who does not successfully complete [the basic training or] any [other] approved course; and

AUTHORITY: sections 590.120 RSMo Supp 1998 and 590.140 RSMo Supp. 1999 and 590.178, RSMo [Supp. 1993] 1994. Emergency rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Original rule filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 10—Peace Officer Standards and Training
Commission Fund**

PROPOSED AMENDMENT

11 CSR 75-10.060 Eligible Cost Items. The commission is amending section (1) and deleting section (2).

PURPOSE: Chapter 10 established the POST Commission Fund for the purpose of training individuals employed by a law enforcement agency. Since current state statutes require an individual to possess peace officer certification before employment, the proposed changes remove language authorizing payment for basic law enforcement training.

(1) [Funds may be expended for basic training requirements or a portion thereof through August 28, 1996.] As of August 28, 1996, monies may be used to pay for continuing law enforcement education requirements or a portion thereof.

[(2) State funds may be expended for the training of law enforcement employees appointed by the state, county or municipality with a priority given to peace officers seeking state certification.]

AUTHORITY: sections 590.120, RSMo Supp. 1998 and 590.140, RSMo Supp. 1999 and 590.178, RSMo [Supp. 1993] 1994. Emergency rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Original rule filed June 2, 1994, effective Nov. 30, 1994. Amended: Filed Nov. 15, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 10—Peace Officer Standards and Training
Commission Fund**

PROPOSED RESCISSION

11 CSR 75-10.090 Application Procedures. This rule defined the procedures to access and receive monies from the Peace Officer Standards and Training Commission Fund.

PURPOSE: Chapter 10 established the POST Commission Fund for the purpose of training individuals employed by a law enforcement agency. Since current state statutes require an individual to possess peace officer certification before employment, the proposed changes remove language authorizing payment for basic law enforcement training.

AUTHORITY: sections 590.120, 590.140 and 590.178, RSMo Supp. 1993. Emergency rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency amendment filed Sept. 8, 1994, effective Sept. 18, 1994, expired Dec. 25, 1994. Emergency amendment filed Dec. 22, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency amendment filed May 5, 1995, effective May 15, 1995, expired Sept. 11, 1995. Rescinded: Filed Nov. 16, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 10—Peace Officer Standards and Training
Commission Fund**

PROPOSED AMENDMENT

11 CSR 75-10.100 [Application Review Process and the Receiving of Assistance from the POST Commission Fund] Distribution of POST Funds. The commission is amending the purpose and deleting sections (1)–(4) and (6) and amending and renumbering section (5).

PURPOSE: Chapter 10 established the POST Commission Fund for the purpose of training individuals employed by a law enforcement agency. Since current state statutes require an individual to possess peace officer certification before employment, the proposed changes remove language authorizing payment for basic law enforcement training.

PURPOSE: This rule defines the procedure to be followed in [reviewing the application and making a determination on eligibility and the receiving of assistance from the Peace Officer Standards and Training Commission Fund.] dispersing the POST Fund back to participating agencies.

[(1) The application will be reviewed by the Peace Officer Standards and Training (POST) Program director or his/her designated representative.

(2) Notification will be made to the chief executive officer (CEO) of the agency making the application within thirty (30) days of receipt of application on acceptance or denial of application.

(3) If the application is denied, the refusal notice must state the reason.

(4) The CEO may appeal the refusal to the POST Commission.

(5) Receiving Assistance from the POST Fund.

(A) Consideration for reimbursement from the POST Fund for new employees appointed on or after August 28, 1994, or on or after March 28, 1995, for certified officers upgrading to the three hundred (300)-hour mandate with the one hundred eighty (180)-hour or sixty-four (64)-hour basic courses, shall be based on the agency training fund, their two dollar (\$2) fund, then the POST Commission Fund.

(B) If the agency training budget and/or two dollar (\$2) fund is greater than the cost of the basic training for the new employee the agency shall be required to pay for basic training.

(C) If the agency training budget and/or two dollar (\$2) fund is less than the cost of the basic training the POST Fund may contribute partially or entirely based on the POST Fund balance.

(D) Each agency submitting more than one (1) completed application, at a minimum may be reimbursed either partially or entirely for the cost of basic training of one (1) new employee. The reimbursement of funds shall be based on subsections (5)(A) and (B) of this rule.]

[(E)](1) Beginning August 28, 1996 all fees collected by local agencies and sent to the Missouri Department of Public Safety will be deposited in the POST Commission Fund to be used only to pay a portion of the cost of continuing education for participating agencies. The distribution of the POST Commission Fund shall be based on the following: Agencies that contribute less than five hundred dollars (\$500) shall receive a minimum distribution of five hundred dollars (\$500). The balance of the fund shall be distributed to participating agencies who contributed five hundred dollars (\$500) or more by a percentage based on the amount of an agency's contribution.

The examples listed below are based on a total Fund amount of \$1,031,655.

Agency	Amount Contributed	90%* or \$500	Remaining Balance to Agencies over \$500	Total Distribution
A	\$1,763.00	\$1,586.70	\$13.80	\$1,600.50
B	\$500.00	\$450.00	\$4.12	\$454.12
C	\$8,128.00	\$7,315.20	\$63.60	\$7,378.80
D	\$66.00	\$500.00	\$0	\$500.00
E	\$105,381.00	\$94,842.90	\$824.61	\$95,667.51

*90% was used as part of this example. This percentage may differ each year.

Explanation of example: Amount contributed column is the amount of money contributed by each agency to the POST Fund. 90%* or \$500 column determines how much agencies will receive. The POST Commission wants agencies contributing more than \$500 to receive as close to 90% of their contribution as the fund balance would allow. This will differ each year. Remaining Balance to Agencies over \$500 is figured by finding the percentage of those agencies who have received over \$500. That amount is then multiplied by the difference between the 90%* or \$500 column and the total POST Fund amount. The 90%* or \$500 column is then added to the Remaining Balance to Agencies over \$500 to find the Total Distribution.

[(F)](2) Monies from the Peace Officer Standards and Training (POST) Commission Fund cannot be used by any agency to supplant (take the place of) funds which were spent for training purposes prior to receiving monies from the POST Commission Training Fund. Monies from the fund shall be used solely for training required as provided in sections 590.100 to 590.180, RSMo, or for additional training for peace officers or for training for other law enforcement employees appointed by the county or municipality as approved by the commission. Training for such other law enforcement employees is presumed to be approved by the commission until such time, and in such specific circumstance, as the commission may determine to withdraw its presumptive approval. Failure to comply with these regulations may, at the direction of the commission, result in ineligibility to receive monies from the fund in the future.

[(6) Agencies contributing to the fund, but that do not meet the four requirements set out in 11 CSR 75-10.030(1)(A)-(D) for reimbursement, will receive only twenty-five percent (25%) of the amount contributed by the agency for the period of non-compliance.]

AUTHORITY: sections 590.120, RSMo Supp. 1998, 590.140, RSMo Supp. 1999 and 590.178, RSMo 1994. Emergency rule filed June 15, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 16, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 11—Continuing Education Requirements**

PROPOSED AMENDMENT

11 CSR 75-11.040 Suspension of the Certification of a Peace Officer, Reserve Officer or Chief Executive Officer for Failing to Maintain Minimum Continuing Education Requirements. The division is amending section (1), deleting sections (2) and (4) and renumbering section (3).

PURPOSE: Changes are required because of a contradiction between state statute and administrative ruling. The change grants the director of public safety discretion in suspending a peace officer's certification for failure to meet the continuing education mandates. The appeal process will be handled through the Administrative Hearing Commission.

(1) [Peace Officer Standards and Training (POST)] The certification of peace officers, reserve officers, or chief executive officers (CEOs) who have not successfully completed the mandated continuing education requirement within the three (3) calendar years or within three (3) calendar years following the date of their certification, and every three (3) years thereafter, [shall be suspended until such time as the continuing education requirement is met. The training required to meet the compliance cannot be counted towards the next three (3)-year period.] is subject to discipline pursuant to 590.135.2, RSMo, in accordance with Chapter 621, RSMo.

[(2) All peace officers, reserve officers, or CEOs who have not completed the mandatory hours within the three (3)-year period, shall be placed on inactive status until completion or expiration of certification, in accordance with section 590.135, RSMo.]

[(3)] (2) The CEO of the employing agency will send a notarized signed affidavit within thirty (30) days of the receipt of the print-out to the Department of Public Safety identifying the certified officers, and their Social Security numbers, who have not met the mandated continuing education requirements. The training required to meet compliance cannot count toward the following year's hours.

[(4) Guidelines for Suspension of Peace Officer, Reserve Officer, and CEO Certification.]

(A) General Administration.

1. Definition. For the purpose of these procedures, affected parties means the complainant, the officer who is subject to the complaint and the CEO and the immediate superior of the CEO in the event that the CEO is the subject of the complaint, during suspension proceedings.

2. Scope. This procedure shall stipulate the guidelines for regulating the processing and administration of complaints concerning allegations of cause for suspension of certification as outlined by the Act. To the extent the terms of this procedure are inconsistent with any other rules or agreements, the terms of this procedure shall be controlling.

(B) Complaint Procedures.

1. Upon receipt of a written complaint from a CEO, his/her supervisor, the presiding circuit judge or other reliable source, including a POST audit, that an officer has not met his/her continuing education requirement, the director or his/her designee may take one (1) of the following actions and shall inform the appropriate affected parties of the action taken.

A. POST makes an effort to acquire adequate information to determine if the officer has met his/her continuing education requirement.

B. The POST compliance and development supervisor, after reviewing the information, makes a determination as to whether changing the status of an officer to inactive is justified as prescribed by section 590.135, RSMo.

C. The POST director will be given the determination and, if in agreement with the determination, will, by certified letter, advise the officer that s/he will be deactivated until the continuing education mandate is met, the reasons for the determination, and directions for appealing the decision.

2. If a formal written appeal of the POST director's decision, to make the officers certification status inactive, is received within fifteen (15) days, a procedure for the appeal is set forth—

A. The officer, upon request, will be provided the opportunity to present testimony to the POST Commission as to why the status of his/her certification should not be made inactive;

B. The POST Commission chair, on behalf of the POST Commission, shall forward a written recommendation to the director to grant or deny the appeal; and

C. The director, or his/her designee, shall notify the officer of the decision to grant or deny the appeal to the commission by certified mail.

3. If the officer wants to continue to seek relief, s/he must again notify the director, in writing within fifteen (15) days, requesting a formal hearing.

A. The officer's file and all supporting information will be forwarded to the hearing officer.

B. The POST director or his/her designee will be notified by the hearing officer to prepare for a formal hearing.

C. The hearing will be in accordance with the state's Administrative Hearing Commission guidelines, under Chapter 621, RSMo.

D. The hearing officer will notify the director of his/her recommendation.

E. The director will review the recommendation of the hearing officer and advise the officer of his/her final decision by certified mail.

F. The decision of the director is fixed.]

AUTHORITY: section 590.135, RSMo [1994] Supp. 1998. Original rule filed Aug. 15, 1995, effective March 30, 1996.

Amended: Filed Nov. 15, 1999. Emergency amendment filed Nov. 22, 1999, effective Dec. 2, 1999, expires May 30, 2000.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 5—City Sales Tax, Transportation Sales Tax
and Public Mass Transportation Tax

PROPOSED RESCISSION

12 CSR 10-5.015 Effective Date. This rule prescribed the effective date of a city sales tax and interpreted and applied section 94.510, RSMo 1986.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 510-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 5—City Sales Tax, Transportation Sales Tax
and Public Mass Transportation Tax

PROPOSED RESCISSION

12 CSR 10-5.020 Tax Imposed. This rule prescribed that the city sales tax be imposed on sellers and interpreted and applied section 94.520, RSMo 1986.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 520-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 5—City Sales Tax, Transportation Sales Tax
and Public Mass Transportation Tax**

PROPOSED RESCISSION

12 CSR 10-5.035 Deductions. This rule indicated that the deductions contained in certain sections of the state sales tax law also applied to city sales tax and interpreted and applied section 94.540.1, RSMo 1986.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 5—City Sales Tax, Transportation Sales Tax
and Public Mass Transportation Tax**

PROPOSED RESCISSION

12 CSR 10-5.105 Erroneous Business Locations Transfers from City-to-City. This rule set forth the procedures for making transfers from city-to-city when it had been determined that a business had reported the city sales tax incorrectly.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 94.530, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Amended: Filed July 2, 1986, effective Dec. 11, 1986. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 5—City Sales Tax, Transportation Sales Tax
and Public Mass Transportation Tax**

PROPOSED RESCISSION

12 CSR 10-5.520 Effective Date. This rule prescribed the effective date of a transportation sales tax and interpreted and applied section 94.605.6, RSMo 1986.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 605-3 originally filed as C.S.T. regulation 510-2 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 11—County Sales Tax**

PROPOSED RESCISSION

12 CSR 10-11.030 Effective Date. This rule specified the effective date of a county sales tax and the effective date when a county imposed a county sales tax on domestic utilities.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 11—County Sales Tax**

PROPOSED RESCISSION

12 CSR 10-11.040 Tax Imposed. This rule set forth the requirements for the seller when reporting and remitting the county sales tax to the director.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 11—County Sales Tax**

PROPOSED RESCISSION

12 CSR 10-11.090 When County Tax Applies. This rule set forth guidelines to aid the taxpayer in the determination as to when the county sales tax applied, interpreted and applied section 67.520.5(1), RSMo 1986.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 11—County Sales Tax**

PROPOSED RESCISSION

12 CSR 10-11.190 Erroneous Business Locations—Transfers from County-to-County. This rule set forth the procedures for making transfers from county-to-county when it had been determined that a business had reported the county sales tax incorrectly.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Amended: Filed July 2, 1986, effective Dec. 11, 1986. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 11—County Sales Tax**

PROPOSED RESCISSION

12 CSR 10-11.200 Adjustment to Decennial Census by St. Louis County Area. This rule listed the requirements for adjustments to the decennial census by political subdivisions in the St. Louis County area.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 66.620, RSMo 1986. Original rule filed Oct. 8, 1986, effective Jan. 30, 1987. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 11—County Sales Tax**

PROPOSED RESCISSION

12 CSR 10-11.210 Distribution of Delinquent Sales Taxes (St. Louis County Area). This rule clarified the distribution of delinquent sales taxes for the St. Louis County area.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 66.620, RSMo 1986. Original rule filed Oct. 8, 1986, effective Jan. 30, 1987. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 11—County Sales Tax**

PROPOSED RESCISSION

12 CSR 10-11.220 Requirements for Filing the Incorporation of a New Political Subdivision (St. Louis County). This rule listed the requirements with which each political subdivision must comply when filing for incorporation.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 66.620, RSMo 1986. Original rule filed Oct. 8, 1986, effective Jan. 30, 1987. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 11—County Sales Tax**

PROPOSED RESCISSION

12 CSR 10-11.230 Adjustments Based Upon Annexation by Political Subdivisions (St. Louis County). This rule explained the requirements with which each political subdivision must comply to change its population as a result of an annexation.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 66.620, RSMo 1986. Original rule filed Oct. 8, 1986, effective Jan. 30, 1987. Rescinded: Filed Nov. 2, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules**

PROPOSED AMENDMENT

12 CSR 10-24.050 Deletion of Traffic Convictions and Suspension or Revocation Data from Missouri Driver Records. The director proposes to amend section (1).

PURPOSE: The proposed amendment reflects procedure changes required for maintaining convictions on the driver record and for ensuring appropriate assessment of points for convictions relating to no driver license and no motorcycle qualifications.

(1) The Department of Revenue, when otherwise not prohibited by law, may delete from a Missouri driver record a previously recorded traffic conviction, suspension or revocation of a driving privilege if all of the following conditions are met:

(A) The conviction in question occurred more than three (3) years previously and did not cause a suspension or revocation of the individual's driving privilege;

(B) The conviction is not for a state violation of "no driver license," a state violation of "no motorcycle qualified" or a state, county or municipal violation of "driving while suspended/revoked."

[(B)](C) The conviction did not involve an alcohol- or drug-related driving offense or enforcement contact;

[(C)](D) The suspension or revocation on the driver record was reinstated more than five (5) years previously and did not involve the failure to maintain financial responsibility as provided in section 303.041, RSMo;

[(D)](E) The suspension or revocation on the driver record did not involve an alcohol-related offense or enforcement contact;

[(E)](F) The driver record does not contain information regarding the mental or physical competence of the individual to retain a drivers license; and

[(F)](G) The driver record is not currently under investigation.

AUTHORITY: sections 302.304 and 302.309, RSMo [Supp. 1991] Supp. 1999 and 303.041, RSMo [1986] 1994. Original rule filed May 27, 1986, effective Aug. 25, 1986. Amended: Filed Sept. 8, 1989, effective Jan. 26, 1990. Amended: Filed Jan. 31, 1992, effective June 25, 1992. Amended: Filed Nov. 4, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$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 Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 41—General Tax Provisions**

PROPOSED AMENDMENT

12 CSR 10-41.010 Annual Adjusted Rate of Interest. The department proposes to amend section (1).

PURPOSE: Under the Annual Adjusted Rate of Interest (section 32.065, RSMo), this amendment establishes the 2000 annual adjusted rate of interest to be implemented and applied on taxes remaining unpaid during calendar year 2000.

(1) Pursuant to section 32.065, RSMo, the director of revenue upon official notice of the average predominant prime rate quoted by commercial banks to large businesses, as determined and reported by the Board of [Governor's] **Governors** of the Federal Reserve System in the Federal Reserve Statistical Release G.13(415) for the month of September of each year has set by administrative order the annual adjusted rate of interest to be paid on unpaid amounts of taxes during the succeeding calendar year as follows:

Calendar Year	Rate of Interest on Unpaid Amounts of Taxes
1983	14%
1984	12%
1985	13%
1986	12%
1987	12%
1988	12%
1989	12%
1990	12%
1991	12%
1992	12%
1993	12%
1994	12% ¹
1995	12%
1996	9%
1997	8%
1998	9%
1999	8%
2000	8%

AUTHORITY: section 32.065, RSMo Supp. 1998. Emergency rule filed Oct. 13, 1982, effective Oct. 23, 1982, expired Feb. 19, 1983. Original rule filed Nov. 5, 1982, effective Feb. 11, 1983. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Nov. 10, 1999, effective Jan. 1, 2000, expires June 28, 2000. Amended: Filed Nov. 10, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$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 Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105-0629. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 103—Sales/Use Tax—Imposition of Tax**

PROPOSED RULE

12 CSR 10-103.360 Titling and Sales Tax Treatment of Boats and Outboard Motors

PURPOSE: Section 144.020.1(1), RSMo, taxes the retail sale of tangible personal property. This rule interprets the sales tax law as it applies to the sale and lease of watercraft and outboard motors pursuant to sections 144.020.1(8), 144.069 and 144.070, RSMo. Chapter 306 requires the owner to obtain a certificate of title for certain watercraft and outboard motors from the Department of Revenue.

(1) In general, the purchaser must pay directly to the Department of Revenue the sales tax due on the sale of watercraft and outboard motors required to be titled. The sales tax due on the sale of all other watercraft must be collected from the purchaser by the seller and remitted to the Department of Revenue.

(2) Definition of Terms.

(A) Boat/outboard motor leasing company—A company obtaining a permit from the Department of Revenue to operate as a boat or outboard motor leasing company.

(B) Documented vessel—A vessel documented by the United States Coast Guard or other agency of the federal government. Such vessels are not subject to any state or local sales or use tax but are instead subject to an in-lieu watercraft tax. See section 306.016, RSMo, for information regarding the in-lieu tax.

(C) Motorboat—Any watercraft propelled by machinery, whether or not such machinery is the principal source of propulsion.

(D) Outboard motor—an internal combustion engine with an integrally attached propeller or waterjet propulsion unit temporarily secured to the stern of a boat.

(E) Personal watercraft—A class of inboard vessel, which uses an internal combustion engine powering a jet pump as its primary source of propulsion.

(F) Vessel—Any motorboat or motorized watercraft; also, any watercraft more than twelve feet (12') in length which is powered by sail or a combination of sail and machinery. The term vessel does not include any watercraft solely propelled by a paddle or oars. A vessel kept within this state must be registered and titled.

(G) Watercraft—Any boat or craft used or capable of being used as a means of transport on waters. Watercraft may or may not be required to be titled.

(3) Basic Application of Tax.

(A) The sales tax due on the sale of a vessel or outboard motor required to be titled must be paid by the purchaser directly to the department at the time the vessel or motor is titled. The rate of sales tax paid is based on the address of the purchaser and the rate in effect on the date the purchaser submits the application for title to the department.

(B) The seller must collect the sales tax due on the sale of all watercraft not covered by section (1) above from the purchaser in accordance with the general sales tax collection methods under Chapter 144, RSMo.

(C) Persons engaged in the lease or rental of watercraft or outboard motors have the option of—

1. Paying taxes on the full purchase price of the watercraft or outboard motor at the time of purchase or titling, depending on the type of craft; or

2. Collecting and remitting the sales tax on the gross receipts derived from the lease or rental of the watercraft or outboard motor.

(D) A person engaged in the lease or rental of watercraft or outboard motors must choose one of the methods listed in (3)(A) or (3)(B) and must treat all watercraft and outboard motors the same for sales tax purposes.

(E) If the lessor chooses the option to collect and remit sales tax based on the lease or rental of the watercraft or outboard motor, the lessor must register with the Department of Revenue as a leasing company pursuant to section 144.070, RSMo. If this option is chosen, the lessor should not pay sales tax on the purchase of the watercraft or outboard motor at the time of purchase or titling.

(F) The rental or lease of watercraft or outboard motors is not considered a fee paid in or to a place of amusement, entertainment or recreation and is therefore not subject to tax as such. This provision avoids double taxation on the purchase and subsequent lease or rental of watercraft or outboard motors.

(G) Examples.

1. Mr. Justin purchases a motorboat and a personal watercraft (jet ski) to be kept in this state. Because the motorboat and jet ski are types of vessels, they are required to be titled. Mr. Justin must title the motorboat and jet ski with the Department of Revenue and pay sales tax on the purchase price of these items directly to the department upon titling. The local sales tax is based upon Mr. Justin's address.

2. Ms. Lindsey purchases a canoe from a boat dealer. A canoe is not a vessel, therefore a title is not required. The seller should charge sales tax on the purchase price of the canoe at the time of sale. The local sales tax is based upon the place of business of the boat dealer.

3. Mr. Biggs rents motorboats, canoes and paddleboats. Mr. Biggs has chosen to pay sales tax at the time of purchase or titling and not to collect sales tax on the rental receipts of the watercraft. Mr. Biggs must pay sales tax on the purchase price of the motorboats directly to the Department of Revenue at the time the boats are titled because the motorboats are vessels required to be titled. Mr. Biggs must pay sales tax to the seller of the canoes and paddleboats at the time of purchase; the canoes and paddleboats are not required to be titled because they do not meet the definition of vessel. Mr. Biggs has chosen to pay sales tax at the time of purchase

or titling and should therefore use this same method for all watercraft and outboard motors that will be rented.

4. Mr. Kev also rents motorboats, canoes and paddleboats. However, Mr. Kev has chosen to collect and remit sales tax on the rental receipts rather than to pay sales tax on the purchase price of the watercraft. In order to choose this option, Mr. Kev must first register with the Department of Revenue as a leasing company. Mr. Kev should then provide his lease/rental number to the Department of Revenue at the time of titling of the motorboats. Mr. Kev should also present a resale exemption certificate to the vendor of the canoes and paddleboats at the time of purchase. Mr. Kev has chosen to collect and remit sales tax on the rental receipts and should therefore use this same method for all watercraft and outboard motors that will be rented.

5. JJ's Resort operates a place of amusement at which motorboats and canoes may also be rented. JJ has the option of paying tax on the motorboats and canoes at the time of purchase or titling or to collect and remit sales tax on the rental receipts. Should JJ choose to pay tax at the time of purchase or titling, the gross receipts from the rental of the motorboats and canoes are not subject to sales tax notwithstanding the fact that JJ operates a place of amusement, entertainment or recreation.

AUTHORITY: sections 144.270 and 144.705, RSMo 1994. Original rule filed Nov. 10, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE Division 10—Director of Revenue Chapter 103—Sales/Use Tax—Imposition of Tax

PROPOSED RULE

12 CSR 10-103.390 Veterinary Transactions

PURPOSE: Sections 144.010.1(9) and 144.020.1(1), RSMo, taxes the retail sale of tangible personal property. This rule interprets the sales tax laws as they apply to veterinarians. This rule also interprets sales tax exemptions that apply to veterinarians including section 144.030.2(2), RSMo.

(1) In general, veterinarians are rendering services not subject to sales tax. However, veterinarians making retail sales of tangible personal property are responsible for collecting and remitting sales tax on the gross receipts derived from these sales.

(2) Definition of Terms.

(A) Livestock—cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich and emu, aquatic products as defined in section 277.024, RSMo, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine or rabbits raised in confinement for human consumption.

(B) Prescription drug—controlled drug available by order of a physician's or veterinarian's prescription. A prescription must exhibit one of the following legends:

1. "Caution: Federal law prohibits dispensing without prescription"; or

2. "Caution: Federal law restricts this drug to be used by or on order by a licensed veterinarian."

(C) Veterinarian—a person licensed to treat animals medically.

(3) Basic Application of Tax.

(A) Veterinarians pay tax on their purchases of items consumed in their veterinarian service. Such items may include, but are not limited to, instruments, bandages, splints, syringes, furniture and equipment.

(B) Veterinarians that sell items including but not limited to, leashes, shampoos, collars, nonprescription drugs, and food for animals (except livestock or poultry) for nonfood producing animals are responsible for collecting and remitting tax on the gross receipts derived from these sales. Veterinarians should provide an exemption certificate to the vendor when purchasing items for resale.

(C) Purchases for resale subsequently used or consumed by the veterinarian are subject to the applicable tax. The veterinarian should accrue and remit this tax to the Missouri Department of Revenue. Veterinarians have used or consumed items purchased for resale if they dispense these items to clients for no charge at the same time they provide a nontaxable service. Medications and vaccines administered to livestock or poultry in the production of food or fiber are exempt from tax.

(D) Prescription drugs are exempt. Products bearing labels, such as, "Available through veterinarians," "For sales to licensed veterinarians" or "Available through licensed veterinarians exclusively," are not prescription drugs and are subject to tax.

(4) Examples.

(A) Dr. Kassady purchased an examining table and operating supplies for her veterinarian practice. The purchase is subject to tax.

(B) Dr. Kassady sells dog food at retail. She also operates a kennel. Dr. Kassady feeds the dogs in her kennel the same dog food she purchases exempt for resale. When Dr. Kassady removes the food from inventory to use in her kennel, tax is due.

(C) Dr. Kassady sells a poultry farmer nonprescription vaccines for use on turkeys raised for the production of food. The farmer also purchases vaccines for his pets. The vaccines for the poultry are exempt; however, the vaccines for the pets are subject to sales tax.

(D) Dr. Kassady purchases surgical tools bearing the label "For sale to licensed veterinarians" to use in her practice. This purchase is subject to tax.

AUTHORITY: sections 144.270 and 144.705, RSMo 1994. Original rule filed Nov. 10, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 103—Sales/Use Tax—Imposition of Tax**

PROPOSED RULE

12 CSR 10-103.500 Sales of Food and Beverages to and by Public Carriers

PURPOSE: Section 144.020.1(1), RSMo, taxes the retail sale of tangible personal property. This rule interprets the sales tax law as it applies to the sale of food and beverages to and by public carriers.

(1) In general, the sales of food and beverages to public carriers are subject to tax unless the carrier charges a separate amount for the sale of these items to its passengers or crew.

(2) Definition of Terms.

(A) Airline—a person engaged in the carriage of persons or cargo for hire by commercial aircraft pursuant to the authority of the federal Civil Aeronautics Board, or successor thereof.

(B) Missouri passenger miles—miles from airline flights that either land in or take off from locations in Missouri.

(C) Public carrier—a person engaged in the business of transporting persons or cargo for hire for the use or benefit of all.

(3) Basic Application of Tax.

(A) Public carriers that purchase food and beverages in this state to be used in serving passengers and crew should pay tax on these items at the time of purchase, unless the public carrier separately charges for the sales of these items.

(B) A public carrier may issue a resale exemption certificate to a seller of food and beverages if the public carrier sells the food and beverages to its passengers or crew and charges them a separately stated amount for these items. If a public carrier chooses this option, it is subject to tax on the gross receipts from all sales in this state of food or beverages to passengers or crew.

(C) Federal statutes exempt Amtrak from state sales tax on the gross receipts from sales in this state to passengers or crew.

(D) Airlines which purchase alcoholic beverages from wholesale distributors must remit tax of those beverages on the following basis:

1. On all sales made on the ground in this state, tax should be collected on the sales price of the drink;

2. The tax due on sales made in flight should be determined by multiplying the tax rate times the Missouri gross liquor revenues; and

3. The Missouri gross liquor revenues are the airline's total gross liquor revenue times the percentage of Missouri passenger miles to total passenger miles.

(E) Federal law, 49 U.S.C. 40116 (c), prohibits a state from taxing activities on flights that merely fly over a state without taking off or landing from an airport in the state.

(4) Examples.

(A) Cool Crowd Airlines is engaged in the business of transporting persons and cargo for hire and has operating facilities in this state where aircraft are furnished with food and beverages. Cool Crowd does not separately charge for sales of food and beverages to its passengers or crew and therefore must pay tax on the purchase of these items when they are delivered in this state.

(B) Assume the same facts as in example one except that Cool Crowd does separately charge for sales of food and drink to passengers or crew. In this instance, Cool Crowd should issue a resale exemption certificate to its food and beverage vendors and purchase these items tax free. Cool Crowd should then collect and remit tax on all sales of food and beverages that occur in this state.

(C) Cool Crowd Airlines purchases alcoholic beverages tax free for resale both in clubs located in this state and in flight. Cool Crowd should remit sales tax on the total gross receipts resulting from all sales made on the ground in this state. For sales occurring in flight, Cool Crowd should remit use tax on the Missouri gross liquor revenues. The Missouri gross liquor revenues are computed by multiplying the airline's total gross liquor revenue times a fraction, the numerator of which is Missouri passenger miles and the denominator of which is total passenger miles.

AUTHORITY: sections 144.270 and 144.705, RSMo 1994. Original rule filed Nov. 10, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE

Division 10—Director of Revenue

Chapter 109—Sales/Use Tax—Sale of Property vs. Sale of Service

PROPOSED RULE

12 CSR 10-109.050 Taxation of Computer Software Programs

PURPOSE: Section 144.020.1(1), RSMo, taxes the retail sale of "tangible personal property." This rule explains when the sale of software is treated as a taxable sale of tangible personal property and when the sale is treated as a nontaxable sale of a service.

(1) In general, the sale of canned computer software programs is taxable as the sale of tangible personal property. The sale of customized software programs, where the true object or essence of the transaction is the provision of technical professional service, is treated as the sale of a nontaxable service.

(2) Definition of Terms.

(A) Canned programs—Canned programs are standardized programs purchased "off the shelf" or are programs of general application developed for sale to and use by many different customers with little or no modifications. These may include programs developed for in-house use and subsequently held or offered for sale or lease. A program may be a canned program even if it requires some modification, adaptation or testing to meet the customer's particular needs.

(B) Customized programs—Customized programs are programs developed to the special order of a customer. The real object sought by a purchaser of customized programs is the service of the seller and not the property produced by the service of the seller.

(3) Basic Application of Tax.

(A) Tax applies to the sale of canned programs delivered in a tangible medium, including coding sheets, cards, magnetic tape, CD-ROM or other electronic distribution media on which or into which canned programs have been coded, punched or otherwise recorded.

(B) Tax applies to the entire amount charged to the customer for canned programs. Where the consideration consists of license fees or royalty payments, all license fees or royalty payments, present or future, whether for a period of minimum use or for extended periods, are includable in the measure of the tax. Tax does not apply to the amount charged to the customer for customized programs. The seller of the customized programs is subject to tax on the purchase of any materials or tangible personal property used to provide the nontaxable service.

(C) Programming changes to a canned program to adapt it to a customer's equipment or business processes, including translating a program to a language compatible with a customer's equipment, are in the nature of fabrication or production labor that are a part of the sale and are taxable.

(D) Charges for assembler, compiler, utility, report writer and other canned programs provided to those who lease or purchase automatic data processing equipment are subject to tax whether the charges are billed separately or are included in the lease or purchase price of the equipment.

(E) Program installation, training, and maintenance of software services are taxable under the following circumstances:

1. The purchase of the services is mandatory under the terms of an agreement to purchase software;
2. Even though the purchase of the services is not mandatory under a software purchase agreement, the purchase of the services is taxable if canned program updates are included in the purchase price for the services and the services are not separately stated; or
3. The purchase of the services, though not part of a mandatory agreement to purchase software, is included in the total price for the purchase of software and the services are not separately stated.

(F) Program installation, training and maintenance of software services are not taxable under the following circumstances:

1. The purchase of the services is not mandatory under a software purchase agreement and the services are separately stated on the purchase invoice from software or other items purchased; or
2. The services are purchased separately from software or other tangible personal property.

(4) Examples.

(A) The sale of computer video game programs used to operate computer video games is considered the sale of tangible personal property and is subject to tax.

(B) Canned programs used to operate business computers, personal computers, word processors, display writers and other similar hardware are considered the sale of tangible personal property and subject to tax.

(C) The provision of programming services to create a software program to the particular specifications and requirements of a purchaser are not subject to tax. The seller should pay tax on the purchase of any materials or supplies used to provide the service.

(D) The sale of software maintenance agreements which include tangible periodic canned program updates as part of the sales price that are not separately stated on the invoice are subject to tax.

(E) The sale of software modules that are part of an integrated canned program is taxable even if the seller performs activities to install and prepare the programs for use by the purchaser. For example, the sale of general ledger, accounts receivable, accounts payable, or other modules from accounting applications is taxable, even though the seller establishes a chart of accounts or company information for the purchaser.

(F) Programming services required to create new interfaces or custom reports for canned program modules as described above in (4)(E), are not taxable, but the canned program modules remain taxable.

(G) Additional canned programs ("bolt on programs"), such as tax management software, added to either a canned or customized integrated system are taxable.

AUTHORITY: sections 144.270 and 144.705, RSMo 1994. Original rule filed Nov. 4, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 112—Sales/Use Tax—Contractors**

PROPOSED RULE

12 CSR 10-112.300 Sales to the United States Government and Government Contractors

PURPOSE: This rule explains the tax consequences of transactions involving the United States government and government contractors including the exemptions and exclusions provided by sections 144.030.1, 144.010.1(9) and 144.030.2(6), RSMo.

(1) In general, sales to the United States government are exempt from tax. Tax does not apply to items purchased by government contractors for resale to the United States government. In addition, tangible personal property used exclusively in the manufacturing, modification or assembling of products sold to the United States government is exempt from tax.

(2) Definition of Terms.

(A) Government contractor—a business or individual which enters into an agreement with the United States government to provide products or services to the government in exchange for payment. This includes businesses or individuals that contract with the United States government to operate facilities owned by the United States government. As used in this regulation, this term is not limited to businesses that perform improvements to real property (i.e., construction contractors).

(B) Ownership—the right to exercise dominion and control over property. A person who has the right to designate who is to receive title to the property has an ownership interest in the property.

(C) Purchaser—a person who receives title or ownership to property in return for payment or consideration.

(D) United States government—any entity comprising a part of the government of the United States of America, including but not limited to, any United States government agency and any branch of the armed forces of the United States. Federal savings and loan associations and national banks are not included in this definition.

(3) Basic Application of the Tax.

(A) Sales to the United States government are exempt from tax under the doctrine of intergovernmental immunity and section 144.030.1, RSMo, which provides an exemption from tax for any transaction which the state of Missouri is prohibited from taxing under the Constitution or laws of the United States. This exemption applies only to sales in which the United States government is the purchaser.

1. If a government contractor receives title or ownership to property to be used in the performance of a government contract, the government contractor (not the United States government) is the purchaser of the property. The sale is not exempt from tax under the doctrine of intergovernmental immunity.

2. When property is purchased pursuant to a government contract or purchase order that provides that title to the property will pass directly from the seller to the United States government, and the United States government also controls the disposition and use of the property so that the contractor does not obtain ownership to the property, then the United States government is the purchaser of the property for sales tax purposes. The sale is exempt from tax. The exemption applies in these circumstances, even if the government contractor remits payment to the seller for the property.

(B) The resale exclusion applies to property purchased by government contractors and resold to the United States government. The purchase of property for resale is not subject to tax; and the resale of property by a government contractor to the United States government is also not subject to tax.

1. Some United States government contracts incorporate standard contract clauses from the Federal Acquisition Regulations or similar contract clauses that state that title to property purchased by the government contractor pursuant to the contract shall vest in the United States government. The transfer of title under these title vesting clauses can result in a resale of the property by the government contractor to the United States government.

2. In some cases the cost of the property purchased by a government contractor is allocated among a number of different contracts. Under these circumstances, the resale exclusion would apply only to that portion of the cost that is allocated to contracts that include the title vesting clauses. Under the title vesting clauses, the United States government does not receive title to property that is leased by a government contractor for use in a government contract, since the government contractor does not receive title to the leased property. The resale exclusion does not apply to property leased for use in the performance of a government contract.

(C) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products to be sold to the United States government is exempt from tax pursuant to section 144.030.2(6), RSMo.

1. This exemption does not apply to property used for any functions other than manufacturing, processing, modification or assembling, even if such use is minor. Nor does it apply to property used, even partially, for functions relating to the production of products for customers other than the United States government.

2. This exemption applies to any item of tangible personal property that otherwise qualifies for the exemption, including machinery, equipment, parts, materials and supplies.

(4) Examples.

(A) The U.S. Department of Agriculture purchases desks and office supplies for use in its offices. The sale is exempt from tax under the doctrine of intergovernmental tax immunity.

(B) A corporation enters into a contract with the U.S. Army to operate a plant where ammunition will be produced. The contract gives the Army the right to control the use and disposition of any property purchased in connection with the contract. The contract incorporates a title vesting clause found in Federal Acquisition Regulation 52.245-5. The corporation orders bins that will be used for storing inventory in a warehouse that is part of the facility. The corporation orders the bins using purchase orders that state the U.S. Army will receive title to the bins directly from the seller. The corporation pays the seller for the bins, and is later reimbursed for this expense by the Army. Under these facts, the Army is the purchaser of the bins, and the transaction is exempt from tax.

(C) A corporation enters into a contract with the U.S. Air Force requiring the corporation to build and deliver six (6) airplanes. The contract incorporates the title vesting clause found in Federal

Acquisition Regulation 52.232-16. The corporation also manufactures airplanes for commercial airlines. After it signs the Air Force contract, the corporation purchases office supplies that cost ten thousand dollars (\$10,000). Based on allocation formulas that the Air Force reviews and approves, one-tenth (1/10) of this expense (\$1,000) is charged to the Air Force contract. The remaining costs are not charged to government contracts. The corporation has purchased one-tenth (1/10) of the office supplies for resale to the Air Force, and owes no tax on one thousand dollars (\$1,000). The corporation owes tax on the remaining nine thousand dollars (\$9,000) of this purchase.

(D) The same corporation leases forklifts for use in its plant. Some of the forklifts are used from time-to-time in connection with the Air Force contract. Based on allocation formulas that the Air Force reviews and approves, one-twentieth (1/20) of the charges for leasing the forklifts is charged to the Air Force contract. The resale exclusion does not apply to this transaction. The lease payments are taxable unless some other exemption to tax applies to the lease (e.g., the lease payments may be exempt because the lessor has paid tax on its purchase of the forklifts pursuant to section 144.020.1(8), RSMo).

(E) The same corporation purchases special paints and adhesives that are used in the manufacture of the Air Force airplanes, and for no other purpose. These supplies are exempt from tax under section 144.030.2(6), RSMo.

AUTHORITY: sections 144.270 and 144.705, RSMo 1994. Original rule filed Nov. 10, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

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