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SALUS POPULI SUPREMA LEX ESTO

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



MATT BLUNT

SECRETARY OF STATE

MISSOURI
REGISTER

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

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HOW TO CITE RULES AND RSMo

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

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

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

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

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

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



FROM THIS ANGLE ...

Incorporated by Reference Materials

Effective August 28, 2004, we have a procedural change, made effective and possible by the passage of HB 1616 and SB 1100, which we believe your agency will like!

From August 28th forward, when your agency is filing a rulemaking that will include incorporated by reference material, it is no longer necessary for you to file this material with our office. It is still necessary for you to maintain a copy at your office for **both** older material (formerly incorporated by reference) and newly incorporated materials. This will result in a cost-savings for your agency. Any new material incorporated by reference **must be identified by publisher, address and date, within the text of your rulemaking**, in order to specify how a copy of the material may be obtained, and shall state that the referenced rule, regulation, standard, or guideline **does not** include any later amendments or additions. As always, it must be available, upon request, for inspection at your agency offices, for public inspection and copying at no more than actual cost of reproduction.

Changes . . . they are coming!

The aforementioned legislation will also enable this office to move toward an electronic-only publication of the *Missouri Register*. As we move forward with our full-scale automation project, we will begin to phase out the print copy of the *Missouri Register*. As is the current practice, the online version will remain an exact duplicate of the printed copy; just presented in a new-up-to-date look with an enhanced search function available for the user.

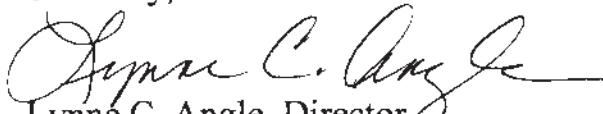
Upon request, we will still provide those persons or businesses who are interested in maintaining a print version a paper copy for your use. Look for these changes to occur before the end of the year. ***Be sure to let us know, however, if you will still require a hard-copy printed version!!***

Transmittal Form To Be Updated

In the very near future, watch our website for an updated version of the transmittal form. This will be a new downloadable, fillable form – that will include the stamp area for the Small Business Regulatory Fairness Board. See SB 719 for further information on whether or not your agency must comply with the provisions of this legislation and also file your rulemakings with this Board.

Please drop by and see our new offices and let us show you around. Also, remember, feel free to call or e-mail us whenever we may assist you with Administrative Rules-related issues.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lynne C. Angle".

Lynne C. Angle, Director
Administrative Rules Division

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

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

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

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

EMERGENCY AMENDMENT

2 CSR 30-2.010 Health Requirements Governing the Admission of Livestock, Poultry and Exotic Animals Entering Missouri. The division is amending subsection (13)(D).

PURPOSE: This emergency amendment addresses the financial crisis affecting Missouri white-tail deer farmers due to the importation restriction implemented during the first years of chronic wasting disease (CWD) control and eradication efforts throughout the nation by reducing the required level of surveillance for CWD in order for white-tail deer to enter Missouri.

EMERGENCY STATEMENT: There is a compelling governmental interest in preserving the white-tail deer industry which has been seriously affected by a 2002 rule change. This emergency amendment will provide significant regulatory and financial relief for captive white-tail deer producers and big game hunting preserve operators. The emergency passage of this amendment will allow millions of dollars to be injected into the state's economy this year, help maintain employment in the white-tail deer industry and could save Missouri white-tail deer operations from being forced out of business.

The Missouri Department of Agriculture (MDA) values and supports a prosperous agricultural economy and supports and promotes the preservation and enhancement of our environment and agricultural resources. The Missouri Department of Agriculture supports and promotes the safe, profitable and environmentally responsible operation of white-tail deer agricultural endeavors.

In order to protect Missouri livestock and existing herds of elk, elk-hybrids, white-tailed deer and mule deer from importation of diseases that pose a potential threat to the public health, safety and welfare, the Department of Agriculture proposed a rule change in 2002 to limit and monitor the movement of captive cervids into the state. The proposed change, dealing with the diseases of brucellosis, tuberculosis and chronic wasting disease (CWD), was adopted. The amended rule requires captive cervids entering Missouri to have an interstate shipping permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. The rule stipulates testing requirements for the movement of captive cervids into the state. The rule also states that cervids "from all states must have participated in a surveillance program for at least three (3) years prior to entering Missouri."

Although the department has received little or no negative feedback regarding the cost associated with testing the animals, an unintended consequence of the rule change has negatively impacted the profitability of the industry. Very few herds in the United States have been in a surveillance program for three (3) years or longer and ironically those herds that have are in states that have been reported to have chronic wasting disease endemic areas. With the three (3) year surveillance requirement in place farmers engaged in big game hunting operations have little or no opportunity to import large trophy deer for their hunting preserves and breeders have difficulty importing ideal breeding stock. The inability to import the very best stock has cost the industry more than three (3) million dollars in lost hunt sales alone. Since more than ninety percent (90%) of the white-tail-deer hunters at Missouri's big game preserves are from out-of-state there has been a substantial revenue loss to Missouri's tourism industry as well. The local economies in areas surrounding breeding farms and hunting preserves have also seen revenues decline and some of the operations have been forced to lay off employees.

If the rule is not changed in time for the preserves to benefit from this years hunting season not only will there be a significant loss in revenue to the industry and the Missouri economy, it is feared that more operators will be forced out of the business.

Prior to the implementation of the rule change more than two thousand (2,000) white-tail deer were annually exported to other states with sales totaling more than three (3) million dollars. Since the 2002 three (3) year surveillance requirement was enacted, sales of white-tail deer at Missouri livestock markets have dropped by more than ninety percent (90%) and the top selling price for a buck has plummeted from eleven thousand dollars (\$11,000) to one thousand dollars (\$1,000) in the same period. This once thriving segment of the industry is now all but nonexistent. Since the rule was amended the total economic impact in lost revenue in Missouri has been estimated to be more than ten (10) million dollars annually. Although this amount may seem small compared to Missouri's total economy it is a substantial amount for one (1) small segment of Missouri agriculture.

In the two (2) years since the rule change, extensive testing and epidemiologic studies have been conducted nationwide. The results have revealed no new infected herds outside the original eleven (11) states where the disease had been previously diagnosed. While the rule change lowers the required number of years for CWD surveillance from a three (3)-year to two (2)-year status it further requires that all captive white-tail deer entering Missouri with a two (2)-year status be tested for CWD upon the death of the animal regardless of the cause of death. MDA and its Animal Health Division are satisfied that the emergency rule change will continue to protect the public health, safety and welfare as well as Missouri livestock and

cervids through surveillance and testing, while providing needed and immediate financial relief for the white-tail deer industry.

The Missouri Department of Agriculture strongly supports the emergency status of this rule change.

A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Department of Agriculture believes this emergency amendment is fair to all interested persons and parties under the circumstances. Emergency amendment filed August 23, 2004, effective September 3, 2004, expires March 1, 2004.

(13) Miscellaneous and Exotic Animals. All exotic animals must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.

(D) Captive cervids, prior to entering Missouri, must have an entry permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. Captive cervids that enter Missouri must be in compliance with the guidelines as incorporated by reference to the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999* and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*.

1. All sexually intact animals six (6) months of age or older, not under quarantine and not affected with brucellosis, must test negative for brucellosis within thirty (30) days prior to movement, except:

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may enter on herd status without additional testing provided the certified herd number and current test date is shown on the Certificate of Veterinary Inspection;

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to interstate movement.

2. Captive cervids not known to be affected with or exposed to tuberculosis and not in a status herd, as defined in the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to movement. Both negative test dates must be listed on the Certificate of Veterinary Inspection. Animals must have been isolated from other captive cervids during the testing period.

3. Movement from status herds.

A. Accredited herd—captive cervids originating from accredited tuberculosis-free cervid herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, may enter on herd status without additional testing provided the accredited herd number and current test date is shown on the Certificate of Veterinary Inspection.

B. Qualified herd—captive cervids originating from a qualified herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.

C. Monitored herd—captive cervids originating from a monitored herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to date of movement.

D. Captive cervids less than twelve (12) months of age that originate from and were born in qualified or monitored herds may be moved without further tuberculosis testing, provided that they are accompanied by a certificate stating that such captive cervids origi-

nated from such herds and have not been exposed to captive cervids from a lower status herd.

4. Captive cervids from an area that has been reported as a chronic wasting disease (CWD) endemic area or any cervid that has been in an endemic area in the last five (5) years will not be allowed to enter Missouri.

5. Elk, elk-hybrids, [*white-tailed deer*] and mule deer from all states must have participated in a surveillance program for at least three (3) years prior to entering Missouri. Other captive cervids other than *white-tailed deer* must have participated in a surveillance program recognized by the state of origin prior to entering Missouri.

6. **White-tailed deer from all states must have participated in a surveillance program for at least two (2) years prior to entering Missouri. Other captive cervids must have participated in a surveillance program recognized by the state of origin prior to entering Missouri.**

7. **All captive white-tailed deer that enter Missouri with a two (2)-year status in a CWD surveillance program and remain in Missouri at the time of death must be tested for CWD.**

AUTHORITY: section 267.645, RSMo 2000. This version of rule filed Jan. 24, 1975, effective Feb. 3, 1975. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 23, 2004, effective Sept. 3, 2004, expires March 1, 2005. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 6—Livestock Markets

EMERGENCY AMENDMENT

2 CSR 30-6.020 Duties and Facilities of the Market/Sale Veterinarian. The department is proposing to amend subsection (8)(D).

PURPOSE: This emergency amendment addresses the financial crisis affecting Missouri white-tail deer farmers due to the importation restriction implemented during the first years of chronic wasting disease (CWD) control and eradication efforts throughout the nation by reducing the required level of surveillance for CWD in order for white-tail deer to enter Missouri.

EMERGENCY STATEMENT: There is a compelling governmental interest in preserving the white-tail deer industry which has been seriously affected by a 2002 rule change. This emergency amendment will provide significant regulatory and financial relief for captive white-tail deer producers and big game hunting preserve operators. The emergency passage of this amendment will allow millions of dollars to be injected into the state's economy this year, help maintain employment in the white-tail deer industry and could save Missouri white-tail deer operations from being forced out of business.

The Missouri Department of Agriculture (MDA) values and supports a prosperous agricultural economy and supports and promotes the preservation and enhancement of our environment and agricultural resources. The Missouri Department of Agriculture supports and promotes the safe, profitable and environmentally responsible operation of white-tail deer agricultural endeavors.

In order to protect Missouri livestock and existing herds of elk, elk-hybrids, white-tailed deer and mule deer from importation of diseases that pose a potential threat to the public health, safety and welfare, the Department of Agriculture proposed a rule change in 2002 to limit and monitor the movement of captive cervids into the state. The proposed change, dealing with the diseases of brucellosis, tuberculosis and chronic wasting disease (CWD), was adopted. The amended rule requires captive cervids entering Missouri to have an interstate shipping permit issued by the state veterinarian's office and a

Certificate of Veterinary Inspection. The rule stipulates testing requirements for the movement of captive cervids into the state. The rule also states that cervids "from all states must have participated in a surveillance program for at least three (3) years prior to entering Missouri."

Although the department has received little or no negative feedback regarding the cost associated with testing the animals, an unintended consequence of the rule change has negatively impacted the profitability of the industry. Very few herds in the United States have been in a surveillance program for three (3) years or longer and ironically those herds that have are in states that have been reported to have chronic wasting disease endemic areas. With the three (3) year surveillance requirement in place farmers engaged in big game hunting operations have little or no opportunity to import large trophy deer for their hunting preserves and breeders have difficulty importing ideal breeding stock. The inability to import the very best stock has cost the industry more than three (3) million dollars in lost hunt sales alone. Since more than ninety percent (90%) of the white-tail deer hunters at Missouri's big game preserves are from out-of-state there has been a substantial revenue loss to Missouri's tourism industry as well. The local economies in areas surrounding breeding farms and hunting preserves have also seen revenues decline and some of the operations have been forced to lay off employees.

If the rule is not changed in time for the preserves to benefit from this year's hunting season not only will there be a significant loss in revenue to the industry and the Missouri economy, it is feared that more operators will be forced out of the business.

Prior to the implementation of the rule change more than two thousand (2,000) white-tail deer were annually exported to other states with sales totaling more than three (3) million dollars. Since the 2002 three (3) year surveillance requirement was enacted, sales of white-tail deer at Missouri livestock markets have dropped by more than ninety percent (90%) and the top selling price for a buck has plummeted from eleven thousand dollars (\$11,000) to one thousand dollars (\$1,000) in the same period. This once thriving segment of the industry is now all but nonexistent. Since the rule was amended the total economic impact in lost revenue in Missouri has been estimated to be more than ten (10) million dollars annually. Although this amount may seem small compared to Missouri's total economy it is a substantial amount for one (1) small segment of Missouri agriculture.

In the two (2) years since the rule change, extensive testing and epidemiologic studies have been conducted nationwide. The results have revealed no new infected herds outside the original eleven (11) states where the disease had been previously diagnosed. While the rule change lowers the required number of years for CWD surveillance from a three (3)-year to two (2)-year status it further requires that all captive white-tail deer entering Missouri with a two (2)-year status be tested for CWD upon the death of the animal regardless of the cause of death. MDA and its Animal Health Division are satisfied that the emergency rule change will continue to protect the public health, safety and welfare as well as Missouri livestock and cervids through surveillance and testing, while providing needed and immediate financial relief for the white-tail deer industry.

The Missouri Department of Agriculture strongly supports the emergency status of this rule change.

A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Agriculture believes this emergency amendment is fair to all interested persons and parties under the circumstances. Emergency amendment filed August 23, 2004, effective September 3, 2004 expires March 1, 2005.

(8) Miscellaneous and Exotic Animals. All exotic animals presented for exchange, barter, lease or sale at a licensed livestock market/sale must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific

name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.

(D) Captive cervids from out-of-state that arrive at a market/sale in Missouri must have an entry permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. Captive cervids from out-of-state that arrive at a market/sale must be in compliance with the guidelines as incorporated by reference to the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999* and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*. Movement of Missouri origin captive cervids must be in compliance with Missouri's intrastate movement regulations.

1. All sexually intact animals six (6) months of age or older, not under quarantine and not affected with brucellosis, must test negative for brucellosis within thirty (30) days prior to arrival at the market/sale, except:

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may be sold through a market/sale on the current herd number and test date;

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to arrival at the market/sale.

2. Captive cervids not known to be affected with or exposed to tuberculosis and not in a status herd, as defined in the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to arrival at the market/sale.

3. Movement from status herds.

A. Accredited herds—captive cervids originating from accredited tuberculosis-free cervid herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, may be sold through a market/sale on the current herd number and test date.

B. Qualified herd—captive cervids originating from a qualified herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.

C. Monitored herd—captive cervids originating from a monitored herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.

D. Captive cervids less than twelve (12) months of age that originate from and were born in qualified or monitored herds may be sold through a market/sale without further tuberculosis testing, provided that they are accompanied by a certificate stating that such captive cervids originated from such herds and have not been exposed to captive cervids from a lower status herd.

4. Captive cervids from an area that has been reported as a chronic wasting disease (CWD) endemic area or any cervid that has been in an endemic area in the last five (5) years will not be allowed to move through a Missouri livestock market/sale.

5. Elk, elk-hybrids, white-tailed deer and mule deer from all states must have participated in a surveillance program for at least three (3) years prior to moving through a Missouri livestock market/sale. Other captive cervids other than white-tailed deer must have participated in a surveillance program recognized by the state of origin prior to moving through a Missouri livestock market/sale.

6. White-tailed deer from all states must have participated in a surveillance program for at least two (2) years prior to entering Missouri. Other captive cervids must have participated in a surveillance program recognized by the state of origin prior to entering Missouri.

7. All captive white-tailed deer that enter Missouri with a two (2)-year status in a CWD surveillance program and remain in Missouri at the time of death must be tested for CWD.

AUTHORITY: section 277.160, RSMo 2000. Original rule filed June 15, 1990, effective Dec. 31, 1990. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed March 5, 2004, effective March 15, 2004, expires Aug. 27, 2004. Amended: Filed March 5, 2004. Emergency amendment filed Aug. 23, 2004, effective Sept. 3, 2004, expires March 1, 2005. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 45—Athlete Agents
Chapter 1—General Rules**

EMERGENCY RULE

4 CSR 45-1.010 Fees

PURPOSE: This rule establishes various fees for 4 CSR 45.

EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling governmental interest requiring an early effective date for the registration of athlete agents that would otherwise be unable to comply with the normal registration requirements of the Division of Professional Registration. Currently athlete agents are registered with the secretary of state's office. Senate Bill 1122 of the 92nd General Assembly requires athlete agents be registered and certified with the Division of Professional Registration. Senate Bill 1122, effective August 28, 2004. Senate Bill 1122 did not contain a grace period for the transfer of duties from one agency to the other. The lack of any grace period means that, as of August 28, 2004, athlete agents wanting to conduct business in Missouri in order to represent Missouri's student athletes will not have a valid license without first applying to the Division of Professional Registration. The division cannot process license applications without charging a fee, as the division is an entirely fee-funded agency without access to General Revenue funds to support its activities. The fee contained in this emergency rule is the same as the statutory fee formerly charged by the secretary of state's office under the repealed law. The division also finds that an immediate danger to safety requires emergency action in that without this rule, young students would not have access to licensed athlete agents and would not be under the protection of the state law against incompetent and/or fraudulent licensees. The scope of the emergency rule is limited to the specific situation giving rise to the need for an emergency rule as well as the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The division believes this emergency rule to be fair to all interested parties under the circumstances. This emergency rule was filed August 30, 2004, effective September 9, 2004, expires March 7, 2005.

(1) Application Fee \$500

(2) Fingerprinting Fee (As determined by the Highway Patrol)

AUTHORITY: sections 436.227, 436.218 and 436.239 as amended by SB 1122 2004. Emergency rule filed Aug. 30, 2004, effective Sept. 9, 2004, expires March 7, 2005. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 3—Fireworks**

EMERGENCY RESCISSION

11 CSR 40-3.010 Fireworks—Licenses and Sales. This rule provided for the administration of 320.106 through 320.161, RSMo.

PURPOSE: This rule is being rescinded due to FY04 statutory changes and the filing of a new proposed rule.

EMERGENCY STATEMENT: During the FY04 legislative session, SB 1196 became law with the effective date being August 28, 2004. Due to numerous changes the Division of Fire Safety finds it necessary to rescind the existing rule to be replaced by a more inclusive proposed rule to address the changes. This emergency rescission is necessary to preserve a compelling governmental interest to ensure public safety measures are in place. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Division of Fire Safety believes this emergency rescission is fair to all interested persons and parties under the circumstances. The emergency rescission was filed August 31, 2004, effective September 10, 2004 and expires March 7, 2005.

AUTHORITY: section 320.III.9, RSMo Supp. 1988. Original rule filed Sept. 29, 1988, effective Feb. 24, 1989. Amended: Filed May 1, 1989, effective July 13, 1989. Emergency rescission filed Aug. 31, 2004, effective Sept. 10, 2004, expires March 7, 2005. A proposed rescission covering this same material is published in this issue of the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 3—Fireworks**

EMERGENCY RULE

11 CSR 40-3.010 Fireworks—Licensing, Permits, Sales, Inspection, and Penalties

PURPOSE: This rule explains the licensing/permit process for the sales, discharge, possession and inspections associated with consumer, display and proximate fireworks.

EMERGENCY STATEMENT: During the FY04 legislative session, SB 1196 became law with the effective date being August 28, 2004. The Division of Fire Safety finds that this emergency rule is necessary to preserve a compelling governmental interest to ensure public safety measures are in place on this date. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Missouri Division of Fire Safety believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 31, 2004, effective September 10, 2004 and expires March 7, 2005.

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

(1) The following definitions shall be used in interpreting this rule:

(A) *American Pyrotechnics Association (APA), Standard 87-1*; or subsequent standard which may amend or supersede this standard for manufacturers, importers and distributors of fireworks;

(B) Chemical composition, all pyrotechnic and explosive composition contained in fireworks devices as defined in *American Pyrotechnics Association (APA), Standard 87-1*;

(C) Consumer fireworks, explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, 1.4G by regulation of the United States Department of Transportation, as amended from time-to-time, and which were formerly classified as class C common fireworks by regulation of the United States Department of Transportation;

(D) Discharge site, the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;

(E) Display site, the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking areas;

(F) Display fireworks, explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two (2) grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0335, 1.3G by regulation of the United States Department of Transportation, as amended from time-to-time, and which were formerly classified as class B display fireworks by regulation of the United States Department of Transportation;

(G) Distributor, any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, RSMo including any person that imports any fireworks of any kind in any manner into the state of Missouri;

(H) Fireworks, any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 CFR part 171 to end, United States Department of Transportation hazardous materials regulations, and *American Pyrotechnics Association, Standard 87-1*;

(I) Fireworks season, the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;

(J) Illegal fireworks include fireworks whose explosive composition exceeds the limits for consumer fireworks or display fireworks, UN0336, 1.4G, UN0335, 1.3G and UN0431, 1.4G or UN0432, 1.4S by the United States Department of Transportation, and *American Pyrotechnics Association, Standard 87-1* including ground salutes commonly known as cherry bombs, M-80's, M-100's, M-1000's or other fireworks designated with an "M" prefix whose explosive composition exceeds the limits for consumer fireworks by the United States Department of Transportation;

(K) Jobber, any person engaged in the business of making sales of consumer fireworks at wholesale or retail, within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December;

(L) Licensed operator, any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;

(M) Manufacturer, any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;

(N) NFPA, National Fire Protection Association; an international codes and standards organization;

(O) Permanent structure, buildings and structures with permanent foundations other than tents, stands, mobile homes, and trailers;

(P) Permit, the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161, RSMo to sell, possess, manufacture, discharge, or distribute fireworks;

(Q) Person, any corporation, association, partnership or individual or group thereof;

(R) Proximate fireworks, a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as defined by the most current edition of the *American Pyrotechnics Association (APA), Standard 87-1*, section 3.8, specific requirements for theatrical pyrotechnics;

(S) Pyrotechnic operator or special effects operator, an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;

(T) Sale, an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;

(U) Seasonal retailer, any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subsection (I) of this section;

(V) Wholesaler, any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri.

(2) General Requirements, Licenses, Permits and Fees.

(A) Each firm or person engaged in the manufacture, transportation, wholesale or retail sales of fireworks, public displays utilizing fireworks 1.3G, proximate fireworks 1.4G theatrical, proximate fireworks 1.4S theatrical, pyrotechnic special effects operators, licensed display fireworks operator shall have an applicable license or permit issued by the state fire marshal.

1. License by type:

A. Licensed/Operator, a fee of one hundred dollars (\$100) for three (3)-year license; and

B. Pyrotechnic or special effects operator, a fee of one hundred dollars (\$100) for three (3)-year license.

2. Permits by type:

A. Manufacturer, fee of seven hundred seventy-five dollars (\$775) per calendar year per location;

B. Distributor, fee of seven hundred seventy-five dollars (\$775) per calendar year per location;

C. Wholesaler, fee of two hundred seventy-five dollars (\$275) per calendar year per location;

D. Jobber, a fee of five hundred twenty-five dollars (\$525) per calendar year per location;

E. Seasonal retailer, a fee of fifty dollars (\$50) per calendar year per sales location;

F. Display fireworks, a fee of one hundred dollars (\$100) per calendar year per location;

G. Proximate fireworks display, a fee of one hundred dollars (\$100) per calendar year per location.

(B) All fees shall be paid by cash, money order, or check payable to the Missouri Division of Fire Safety and are nonrefundable or non-transferable except for overpayments resulting from mistakes of law or fact.

(C) All permits except for seasonal retailer shall be for the calendar year or any fraction thereof and shall expire on the thirty-first day of December each year.

(D) Seasonal retail permit shall be valid from the twentieth day of June through the tenth day of July of the same year and the period beginning on the twentieth day of December through the second day of January of the next year.

(E) No seasonal retail, wholesaler or jobber permit shall be issued to a person under the age of eighteen (18) years.

(F) No manufacturer or distributor permit shall be issued to a person under the age of twenty-one (21) years.

(G) No permit or license shall be transferable nor shall a person operate under a permit or license issued to another person or location.

(H) All original permits issued shall be made available for review at the location for which it was issued.

(I) Manufacturer, wholesaler, jobber and distributor permit holders operating out of multiple locations shall obtain a permit for each location.

(J) Upon determining that an applicant has furnished or supplied false information in applying for a license or permit or attempting to renew a license or permit, or has failed to notify the state fire marshal of any change in the information supplied in an application, the state fire marshal may refuse to license or permit the applicant or may revoke or suspend any license or permit issued to the applicant for a period of not more than three (3) years.

(K) The state fire marshal may refuse to issue a license or permit to any applicant when the permit or license of the individual, corporation or partner is under suspension or revocation. The state fire marshal may also refuse to issue a license or permit to a person who is a partner, shareholder, manager, officer, spouse or relative of the applicant or a party to the applicant or is in a position to obtain any financial gain should the application be granted during the period of suspension or revocation.

(L) The state fire marshal may refuse to issue a license or permit for a period not to exceed three (3) years to an applicant whose license or permit has been revoked for the possession or sale of illegal fireworks as referred to in section 320.136, RSMo.

(M) In addition to any other penalty, any person who manufactures, sells, offers for sale, ships or causes to be shipped into or caused to be shipped into Missouri for use in Missouri any items of fireworks without first having obtained the applicable permit or license shall be assessed a civil penalty of up to a one thousand dollar (\$1,000) fine for each day of operation up to a maximum of ten thousand dollars (\$10,000).

(N) Any person aggrieved by any official action of the state fire marshal affecting their license or permit status including revocation, suspension, failure to renew or refusal to issue a license or permit may seek a determination by the Administrative Hearing Commission pursuant to the provisions of section 621.045, RSMo.

(3) Applications for Permit—Manufacturer, Distributor, Wholesaler, Jobber, Seasonal Retail.

(A) Applications for a permit shall be on forms provided by the state fire marshal and shall be accompanied by the appropriate fee and documentation as required.

1. Copy of Missouri retail sales tax license.

2. Copy of current certificate of "No Tax Due" for the preceding year obtained from Missouri Department of Revenue, except if the applicant is pursuing any proper remedy at law challenging the amount, collection, or assessment of any sales tax.

3. If applicable, copy of "Certificate of Good Standing" from Missouri Secretary of State.

4. Copy of applicable federal license or permit.

(B) Failure to make application for seasonal retail permit by May thirty-first of the calendar year may result in the fire marshal's refusal to issue a permit to the applicant for such calendar year.

(C) Every application for a permit to sell fireworks shall be signed by the permittee or a responsible agent for the permittee who, by signing the application, acknowledges that the permittee will take reasonable steps to see that all employees, agents and officers of the permittee will be familiar with all rules applicable to fireworks operations and will abide by those rules.

(4) Requirements: Manufacturer, Distributor, Jobber or Wholesaler.

(A) A holder of a manufacturer's permit shall not be required to have any additional permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell display or proximate fireworks.

(B) A holder of a distributor's permit shall not be required to have any additional permit in order to sell to wholesalers, jobbers, seasonal retailers or to sell display or proximate fireworks.

(C) A holder of a jobber's permit shall not be required to have any additional permit in order to sell consumer fireworks at retail during the fireworks season from such jobber's permanent structure.

(D) Any wholesale transaction by a manufacturer, distributor, wholesaler or jobber to any seasonal retailer doing business in Missouri shall be permitted only if the purchaser has been issued a seasonal retail permit from the state fire marshal as a seasonal retailer.

(E) Any sales by jobbers and wholesalers during any period of time other than the fireworks season as defined in section 320.106(3), RSMo, shall be to nonresidents of Missouri, or to residents of Missouri only after a reasonable inquiry and a waiver signed by the buyer on a form provided by the state fire marshal indicating that the fireworks are for use outside of Missouri if the sale is a retail transaction.

(F) A holder of a manufacturer, distributor, wholesaler or jobber's permit shall be required to operate out of a permanent structure in compliance with applicable building and fire regulations in the city or county where located.

(G) Any person engaged in more than one (1) permit classification shall pay one (1) permit fee based upon the permit classification yielding the highest amount of revenue.

(H) Any person, entity, partnership, corporation, or association transporting display or proximate fireworks into Missouri for the purpose of resale, or to conduct a 1.3G fireworks display, or to conduct a proximate fireworks display shall be permitted by the state fire marshal as a distributor or manufacturer and have obtained applicable federal license or permit.

(I) Sale of display or proximate fireworks shall be limited to a holder of a federal license or permit and a distributor or manufacturer permit issued by the state fire marshal.

(J) No holder of a manufacturer or distributor permit shall sell, barter, or transfer display or proximate fireworks to anyone not possessing an applicable permit or license.

(K) No wholesaler or jobber, or any other person shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that have not been approved as fireworks UN0336, 1.4G by the United States Department of Transportation.

(L) Possession of display or proximate fireworks for resale to holders of a permit for display or proximate fireworks shall be confined to a holder of a manufacturer or distributor permit and applicable federal license or permit.

(M) No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retail dealers, or any other person in this state for the purpose of resale, or use in this state, any consumer fireworks which do not have the numbers and letter "1.4G" printed with an orange diamond shaped label printed on or attached to the fireworks shipping carton.

(N) Possession of display or proximate fireworks shall be limited to:

1. A holder of a display or proximate fireworks permit issued by the authority having jurisdiction where the display or proximate fireworks display is proposed to be held; or

2. A holder of a display or proximate fireworks permit issued by the state fire marshal; or

3. A holder of a state manufacturer or distributor permit and applicable federal license or permit.

(5) Requirements: Seasonal Retail Sales.

(A) A seasonal retail permit shall be required for each retail sales location.

(B) Consumer fireworks 1.4G shall be sold to the general public only from permitted seasonal retail sites and only during the fireworks season as defined in section (1) of this rule.

(C) It is unlawful to attempt to sell or to sell any fireworks to children under the age of fourteen (14) years except when such child is in the presence of a parent or guardian.

(D) It is unlawful for any person under the age of sixteen (16) to sell fireworks or work in a facility where fireworks are stored, sold, or offered for sale unless under the supervision of an individual at least eighteen (18) years of age.

(E) Seasonal retail permit locations shall be in compliance with all applicable building and fire regulations and may be subject to a fire safety inspection by the state fire marshal per section (7) of this rule.

(F) A seasonal retailer shall acquire and present the appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer provided that such retailer is purchasing the consumer fireworks for resale in this state.

(6) General Requirements; Fireworks Safety/Authority to Inspect.

(A) Fireworks shall not be stored, kept, or sold within fifty feet (50') of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon.

(B) Fireworks shall not be manufactured, stored, kept or sold within one hundred feet (100') of any dispensing unit for ignitable liquids or gases.

(C) It is unlawful to explode or ignite consumer fireworks within six hundred feet (600') of any church, hospital, mental health facility, or school or within one hundred feet (100') of any location where fireworks are stored, sold or offered for sale.

(D) No person shall ignite or discharge fireworks within three hundred feet (300') of any permanent storage of ignitable liquid, gases, gasoline pump, and gasoline filling station.

(E) No person shall ignite or discharge any fireworks within or throw the same from or into a motorized vehicle including watercraft or any other means of transportation or at or near any person or group of people, except where display permit has been issued for a floating vessel or floating platform.

(F) All person(s) selling or offering fireworks for sale or barter or trade will permit the state fire marshal and the marshal's deputies to conduct inspections, based on *Code of State Regulations*, of the business premises or any location where fireworks are stored or kept and will cooperate with any inspection or investigation. Failure to cooperate or refusal to allow an inspection shall result in suspension or revocation of the permittee's permit(s) or refusal of a permit to be issued. This inspection shall be performed during normal business hours.

(7) Requirements; Fire Safety Inspection—Retail Sales.

(A) Portable Fire Extinguishers.

1. Every seasonal retail sales location shall have not less than two (2) portable fire extinguishers with a minimum 2A rating, at least one (1) of which shall be a pressurized water type.

2. Temporary seasonal retail sales locations less than two hundred (200) square feet in area shall be required to have at least one (1) portable fire extinguisher with a minimum 2A rating.

3. The maximum travel distance to a fire extinguisher in any seasonal retail sales location shall be no greater than thirty-five feet (35').

4. All fire extinguishers shall be inspected annually by a fire extinguisher company and have documentation to this effect attached to them.

5. All fire extinguishers shall be located in an accessible location to the staff.

6. Employees shall be trained to operate fire-extinguishing equipment and shall be required to exhibit their skill when requested by the authority having jurisdiction.

(B) Site Requirements.

1. The authority having jurisdiction shall require a certificate or other evidence of acceptance by an organization or laboratory of recognized standing or manufacturer verifying that the tent fabric material has been treated with a flame resistant material.

2. No hay, straw, shavings, or similar combustible materials that have not been treated to make them flame retardant shall be permitted within any seasonal retail sales location.

3. The area located within thirty feet (30') of a retail sales location shall be kept free of accumulated dry grass, dry brush, and combustible debris.

4. Fireworks shall not be displayed or stored behind glass through which direct sunlight will shine on the fireworks except for where the fireworks are in their original package.

5. Fireworks shall be kept in a location out of the reach of the public when an attendant is not on duty.

6. Seasonal retail sales locations shall be secured when unoccupied and not open for business.

(C) Fireworks Discharge.

1. Fireworks shall not be ignited, discharged, or otherwise used within one hundred feet (100') of any location where fireworks are stored, sold, or offered for sale.

2. At least one (1) sign that reads as follows, in letters at least four inches (4") high on a contrasting background, shall be conspicuously posted at each entrance of seasonal retail sales locations:

NO FIREWORKS DISCHARGE WITHIN 100 FEET

(D) No Smoking Signs.

1. Smoking shall not be permitted inside or within twenty-five feet (25') of the seasonal retail sales area.

2. One (1) or more signs reading, "FIREWORKS—NO SMOKING" shall be displayed at each entrance of seasonal retail sales locations in letters not less than four inches (4") in height on a contrasting background.

(E) Separation Distances.

1. No motor vehicle shall be parked within ten feet (10') of a seasonal retail sales location.

2. No trailer used for the storage of consumer fireworks shall be parked within ten feet (10') of a seasonal retail sales location.

3. Temporary seasonal retail sales stands and tent side walls shall not be located within twenty feet (20') of the following, unless authorized by the authority having jurisdiction:

- A. Another building;
- B. Another seasonal retail sales location;
- C. Cooking equipment of any type.

4. Seasonal retail sales locations shall not be located within fifty feet (50') of the following:

A. Any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon;

B. Compressed natural gas dispensing facilities;

C. Retail propane dispensing station;

D. Aboveground storage tanks for flammable or combustible liquid, flammable gas or flammable liquefied gas;

E. Any type of open flame cooking equipment.

5. Portable generators shall be located not less than twenty feet (20') from a seasonal retail sales location.

(F) Means of Egress.

1. All means of egress from any temporary seasonal retail sales tent or stand shall remain clear and free of obstructions.

2. A minimum of two (2) remote means of egress shall be located in a seasonal retail sales location.

3. Exits provided for temporary seasonal retail sales stands shall be arranged so that the maximum egress travel distance does not exceed thirty-five feet (35').

4. Exits provided for seasonal retail tents shall be arranged so that the maximum egress travel distance measured from the most remote point to an exit along the natural and unobstructed path of egress travel, does not exceed seventy-five feet (75').

5. Aisles within a temporary seasonal retail sales tent, where the interior is accessible to the public, the minimum clear width shall be permitted to be not less than forty-eight inches (48").

6. Aisles within a temporary seasonal retail sales stand, where the interior is not accessible to the public, the minimum clear width shall be permitted to be not less than twenty-eight inches (28").

7. The required width of aisles shall be maintained unobstructed at all times the facility is occupied by the public.

8. Dead end aisles shall be prohibited.

9. Exit openings from seasonal retail sales tents shall be not less than forty-four inches (44") in width.

10. Egress doors in temporary seasonal retail sales stands where the interior is not accessible to the public shall be permitted to be not less than twenty-eight inches (28") in width.

11. Egress doors in temporary seasonal retail sales stands where the interior is accessible to the public shall be permitted to be not less than thirty-six inches (36") in width.

12. No fireworks shall be displayed for sale or stored within two feet (2') of any public exit, or private entrance or exit in an enclosed building.

(G) Exit Signs and Emergency Lighting.

1. Exit signs shall be required to be self-luminous or internally or externally illuminated.

2. Exit signs shall not be required to be illuminated in tents or stands that are not open for business after dusk or in temporary seasonal retail sales stands where the interior is not accessible to the public.

3. Emergency lighting shall not be required in tents or stands that are not open for business after dusk or for temporary seasonal retail sales stands where the interior is not accessible to the public.

4. Emergency lighting shall be required as deemed necessary by the fire inspector or authority having jurisdiction.

(H) Electrical Equipment.

1. The electrical system and equipment shall be isolated from the public by proper elevation or guarding, and all electrical fuses and switches shall be enclosed in approved enclosures.

2. Electrical cables, including extension cords on the ground in areas traversed by the public shall be placed in trenches or protected by approved covers.

3. All extension cords shall be a minimum fourteen (14) gauge and multi-outlet power strips shall be UL approved and of the grounding type.

4. All multi-outlet power strips shall be UL approved and of the type with a circuit breaker for overload protection.

5. All electrical wiring, equipment, and devices shall be UL approved, installed and maintained to prevent electrical hazards.

6. All electrical lighting shall be UL approved, mounted and installed in a safe manner.

7. Branch circuits for receptacles, lighting and other uses shall be protected by ground fault circuit interrupters if susceptible to water exposure.

8. The power distribution panel shall be properly grounded with a minimum #6 solid copper wire connected to a copper clad ground rod. The ground wire must be connected to the ground rod using a UL approved ground rod clamp with the clamp being visible.

(I) Prohibited Activity/Items.

1. The retail sales of pest control devices, including their related storage and display shall be prohibited.

2. No electronic pest control device(s) shall be located inside a seasonal retail sales location.

3. The consumption or possession of alcoholic beverages in any seasonal retail sales location is prohibited during business hours.

4. Any person selling fireworks shall not knowingly sell consumer fireworks to any person who is obviously under the influence of alcohol or drugs.

5. Proximate fireworks shall not be allowed to be sold with consumer fireworks.

(8) Permit Requirements; Discharging Display or Proximate Fireworks.

(A) Permit(s) for display or proximate fireworks may be granted to municipalities, fair associations, amusement parks, organizations, persons, firms or corporations. Such permits may be granted upon application and approval by the state fire marshal or local authority having jurisdiction where the display is proposed to be held.

1. Application for a permit to conduct a display/proximate fireworks show issued by the state fire marshal shall meet the following requirements and be on a form provided by the state fire marshal:

A. Applicant shall be at least twenty-one (21) years of age;

B. The permit shall be issued per location per calendar year, except—

(I) Any change from the original site plan relating to distances, mortar size, mortar installation, firing method, etc. shall require a new application and submission of an additional permit fee;

C. A fee of one hundred dollars (\$100) shall be paid to the state fire marshal at the time of initial application for permit;

D. Identity of state licensed display/pyrotechnic operator shall be provided;

E. Applicant shall submit proof of insurance coverage insuring the applicant with liability insurance in order to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof with an occurrence limit of not less than one (1) million dollars. Additionally, insurance coverage of an employer for whom the individual is employed shall be considered to comply with the aforementioned, if the coverage provides equivalent coverage for each employee;

F. If applicant is conducting a display under the auspices of a municipality or political subdivision the applicant shall be exempt from liability insurance coverage if the municipality or political subdivision possesses liability insurance covering the applicant with an occurrence limit of not less than one (1) million dollars;

G. Applicant shall submit a detailed site plan, to include but not be limited to distance requirements per NFPA, firing method, mortar installation and product being used along with the name of the licensed or pyrotechnic operator to the state fire marshal a minimum of ten (10) working days prior to the date of the event;

H. Upon request applicant shall provide Material Safety Data Sheets (MSDS) relating to the products being used;

I. No permit granted shall be transferable;

J. The permit shall apply to only one (1) location.

2. A copy of a display or proximate fireworks permit issued by the local authority having jurisdiction shall be submitted by the permit holder to the state fire marshal within forty-five (45) days of the display or upon request of the state fire marshal.

3. Any venue where proximate fireworks are to be discharged shall be inspected by the state fire marshal or local authority having jurisdiction for compliance with NFPA 1126.

4. Any establishment where proximate fireworks are to be discharged indoors shall be inspected by the state fire marshal or local authority having jurisdiction for compliance with NFPA 1126 and NFPA 101 *Life Safety Code* or equivalent nationally recognized code in relation to means of egress, occupancy load, and automatic sprinkler and fire alarm systems.

5. Provisions shall be made for adequate fire protection at a level determined by the jurisdiction where the display is to be conducted.

6. Safety monitors shall be required per NFPA 1123 and/or NFPA 1126.

7. This subsection shall not preclude a political subdivision, county or city from imposing by ordinance the requirement to notify local authorities of the intent to conduct such display.

(9) Licensed/Pyrotechnic Display Operator.

(A) Every fireworks display or proximate fireworks display shall be supervised, managed, or directed by a Missouri state licensed operator or pyrotechnic operator on-site.

(B) Licensed/pyrotechnic display operators shall complete and submit, on a form provided by the state fire marshal a licensed/pyrotechnic display operator application and meet the minimum requirements listed below:

1. Applicant shall be at least twenty-one (21) years of age;

2. Applicant shall not have a felony conviction or have pleaded guilty to a felony;

3. A fee of one hundred dollars (\$100) shall be paid to the state fire marshal at the time of application for licensure;

4. Applicant shall provide two (2) passport type photographs;

5. The state fire marshal will consider the following criteria in determining whether to issue a license to the applicant under the provisions of this emergency rule:

A. Documentation that applicant has attended courses relating to pyrotechnics;

B. Documentation of actively participating in fireworks displays or proximate fireworks displays within the past three (3) years;

C. Any licenses or certifications from other jurisdictions or licensing entities;

D. References from local authorities, sponsors, employers, and fireworks/pyrotechnic companies;

E. Copy of U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives permit/license if applicable;

6. License shall be carried on person and be presented upon request;

7. Each license issued pursuant to this section shall specify the licensee's name, state issued license number, the license's effective date and expiration date. In any case where the state fire marshal denies, suspends or revokes a license, a written notice of the basis for the denial, suspension or revocation shall be provided to the applicant or license holder;

8. Upon notice of revocation or suspension, the license holder shall surrender the license and all copies thereof to the state fire marshal immediately. No person shall supervise a fireworks display or proximate display once their license has been revoked or suspended;

9. Upon notice of denial, suspension or revocation of a license, the decision may be appealed in writing to the state fire marshal within forty-five (45) days of the denial, suspension or revocation requesting an administrative hearing pursuant to the provisions of section 621.045, RSMo;

10. The state fire marshal may deny, suspend or revoke licensure of any applicant when it is found that the applicant or licensee:

A. Has knowingly made a material misrepresentation of any information required for licensure;

B. Has knowingly by any means of false pretense, deception, fraud, misrepresentation or cheating obtained training or licensure;

11. No person shall handle display/proximate fireworks or cause any person to handle or discharge display/proximate fireworks in this state unless such use of display/proximate fireworks are under the direct supervision and responsibility of a state licensed operator or pyrotechnic operator pursuant to this rule. Persons working under the direct supervision of a licensed operator or pyrotechnic operator at the site shall not be in violation of this rule.

(10) Violations.

(A) A permittee will receive a written warning from the state fire marshal for violation of any of the following:

1. Failing to properly display a No Smoking sign(s);

2. Failing to properly display a No Smoking sign(s) of sufficient size;

3. Failing to properly display a permit or license;

4. Selling or offering for sale fireworks that are not properly labeled;

5. Exposing fireworks to direct sunlight while displayed and unattended, as defined by section 320.146.1, RSMo;

6. Leaving unattended fireworks accessible to the public;

7. Attempting to make or making a sale of fireworks out of season as defined in section 320.106(9), RSMo to someone for use or distribution within the state of Missouri;

8. Knowingly allowing an open flame or smoking within twenty-five feet (25') of a place where fireworks are manufactured, stored, kept, or offered for sale;

9. Selling to a child under the age of fourteen (14) who is not in the presence of his/her parent or guardian;

10. Receiving fireworks without a permit if the permittee was permitted but failed to renew;

11. Selling fireworks without a permit if the permittee was permitted but failed to renew;

12. Selling from other than a permanent structure, except for retail sales during fireworks seasons;

13. Storing fireworks too close to volatile liquids or gases, as defined by section 320.146(2), RSMo;

14. Selling or shipping fireworks to a consumer within a city or county lawfully prohibiting the sale or possession of fireworks pursuant to section 320.121, RSMo;

15. Employing a person less than sixteen (16) years of age who is unsupervised;

16. Selling or offering for sale or displaying fireworks to consumers that are marked other than UN0336, 1.4G;

17. Failure of distributors and manufacturers to retain copies of applicable permit(s) or license(s) issued for display and/or proximate fireworks transactions for one (1) year after the transaction.

(B) Subsequent violation of any of the acts set forth in subsection (10)(A) will result in the suspension or revocation of the permit(s) of the permittee for a period as determined by the state fire marshal.

(C) Violation of any of the following laws or regulations may result in the suspension or revocation of the permit(s) for a period not to exceed three (3) years and/or the refusal of the fire marshal to renew or issue a permit(s) to the permittee or owner:

1. Selling or improperly possessing fireworks while the permit or license has been suspended or revoked;

2. Allowing another person or business to use or display the license of a licensee;

3. Possessing or manufacturing illegal fireworks or selling or offering for sale illegal fireworks as defined in section 320.136, RSMo;

4. Failing or refusing to allow a reasonable inspection of any premises and all portions of buildings where fireworks are being stored or are being offered for sale. A reasonable request is one (1) made either during daylight hours or while the premises or building are open for business;

5. Failing to fully cooperate with a reasonable request during an inspection;

6. Failure to obtain a permit for display or proximate fireworks site;

7. Performing a display or proximate fireworks display without having obtained a licensed operator or pyrotechnic operator permit from the Missouri State Fire Marshal;

8. Selling fireworks for resale in this state to a distributor, manufacturer, jobber, wholesaler or seasonal retailer who has not first obtained their current permits as required by law;

9. Failure of the applicant to obtain all required permit(s) and/or license(s) required as per 320.111(1), RSMo.

(D) The state fire marshal will indicate to the permit holder, in writing, the statute(s) and any regulations violated. Appeals from any decision of the state fire marshal will be made to the Administrative Hearing Commission, except in cases in which a charged violation includes a violation of the criminal laws.

(E) The period of suspension or revocation imposed by the state fire marshal will remain in effect against the permit holder's future business, partnership, corporation or entity even if an attempt to change ownership or control of that permit holder's business, partnership, corporation or entity is made or attempted.

(F) Persons found guilty of handling or discharging display/proximate fireworks, or directing, ordering or otherwise causing any person to handle or fire display/proximate fireworks in this state without having a valid license shall be guilty of a Class A misdemeanor.

(11) Incident Reporting; Licensed Operator/Pyrotechnic Operator Responsibility.

(A) It is the responsibility of the licensed operator/pyrotechnic operator to immediately report any discharge related incident identified below to local law enforcement or fire service agencies and request such agency to notify the Office of the State Fire Marshal—

1. Injury involving immediate medical treatment;
2. Property damage in an amount reportable to the operator's insurance company;
3. Loss of life.

(B) After a reportable incident has occurred, the scene shall not be altered or tampered with in any manner unless authorized by the state fire marshal or designee, until an investigation/inspection can be completed.

(C) Failure of the licensed operator/pyrotechnic operator to report an incident identified in this section may be subject to their license being suspended or revoked by the state fire marshal for a period of time not to exceed (3) years.

AUTHORITY: section 320.111.9, RSMo Supp. 2004. Original rule filed Sept. 29, 1988, effective Feb. 24, 1989. Amended: Filed May 1, 1989, effective July 13, 1989. Emergency rescission and rule filed Aug. 31, 2004, effective Sept. 10, 2004, expires March 7, 2005. A proposed rescission and rule covering this same material is published in this issue of the Missouri Register.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

EMERGENCY AMENDMENT

11 CSR 50-2.311 Bumpers. The division is amending section (4).

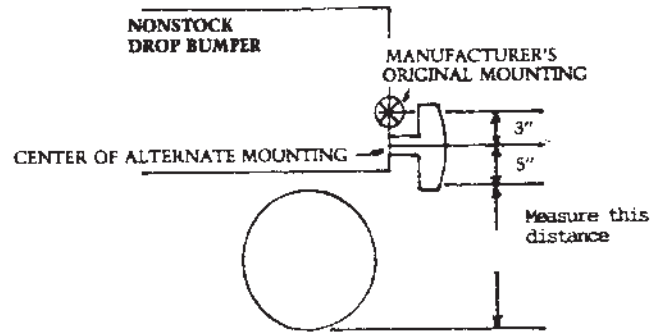
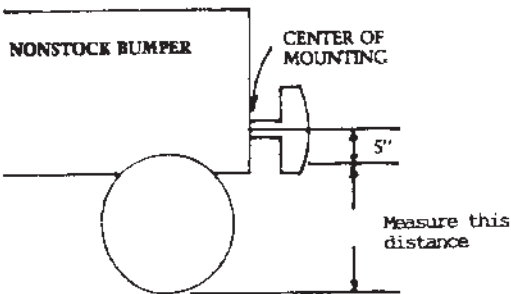
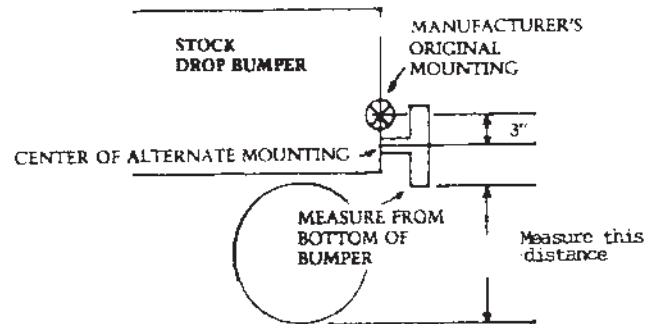
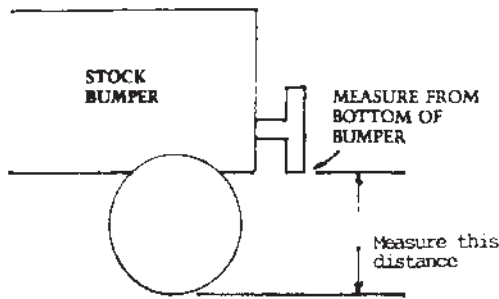
PURPOSE: This amendment adds additional height requirements for bumpers on commercial motor vehicles in excess of nine thousand (9,000) pounds.

EMERGENCY STATEMENT: This emergency amendment requires commercial motor vehicles with a Gross Vehicle Weight Rating (GVWR) from nine thousand one pounds through eleven thousand five hundred pounds (9,001 lbs.–11,500 lbs.) to be inspected for proper bumper heights. Vehicles that exceed the maximum allowable bumper heights pose a danger to the motoring public because, in an accident, they could possibly override smaller vehicles. As a result, the patrol finds an immediate danger to public health, safety and/or welfare and a compelling governmental interest, which requires emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The patrol believes

this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 1, 2004, effective September 11, 2004, and expires March 9, 2005.

(4) Inspection Procedure. Inspect motor vehicle bumpers for proper bumper height, mounting, construction and presence of bumpers. (Pickup trucks and other commercial vehicles not equipped by the manufacturer with a rear bumper as standard equipment are not required to be equipped with a rear bumper.) Vehicle design will determine how a vehicle is classified. Passenger cars and station wagons which are designed and manufactured solely as passenger vehicles will be classified as motor vehicles except commercial motor vehicles and must comply with the twenty-two inch (22") maximum bumper height. Motor vehicles designed as multipurpose or utility vehicles, including Broncos, Blazers, Suburbans, Jeeps, vans, minivans, pickups and mini-pickups, will be considered as commercial motor vehicles. The Gross Vehicle Weight Rating (GVWR) of these vehicles will determine the maximum bumper height as specified in the statute. The following chart depicts various bumper configurations and correct locations to measure:

MAXIMUM BUMPER HEIGHTS
 (NOT TO SCALE)



The following bumper heights apply to motor vehicles with a GVWR up through *[nine] eleven thousand five hundred pounds (9,000/11,500 lbs.)*:

	Maximum Front Bumper Height	Maximum Rear Bumper Height
Motor vehicles except commercial motor vehicles	22 inches	22 inches
Commercial motor vehicles (GVWR) 4500 lbs. and under	24 inches	26 inches
4501 lbs.-7500 lbs.	27 inches	29 inches
7501 lbs.-9000 lbs.	28 inches	30 inches
9001 lbs.-11500 lbs.	29 inches	31 inches

A motor vehicle will not be rejected for improper bumper height if the motor vehicle was originally equipped by the manufacturer with a bumper that exceeds the stated heights or if the vehicle was originally equipped by the manufacturer with a bumper that fails to comply with subsection (1)(A).

AUTHORITY: section 307.172.2, RSMo [1994] Supp. 2004. Emergency rule filed July 23, 1986, effective Aug. 13, 1986, expired Dec. 11, 1986. Original rule filed July 23, 1986, effective Oct. 27, 1986. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 1, 2004, effective Sept. 11, 2004, expires March 9, 2005. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

EMERGENCY AMENDMENT

11 CSR 50-2.320 School Bus Inspection. The division is adding a new section (22), renumbering the remaining section accordingly and adding a new subsection (23)(K).

PURPOSE: This amendment adds the requirement for the inspection of frames on school buses.

EMERGENCY STATEMENT: Section 307.375, RSMo was amended during the 92nd General Assembly adding frames as an item of inspection. This emergency amendment requires frames to be inspected whenever the patrol inspects school buses. Buses found with cracked frames pose a potentially dangerous situation and will need to be placed "Out-of-Service" until such time as repairs have been made. This emergency amendment is necessary to protect the public health, safety and welfare as certain types of school buses have previously been identified with cracked frames. As a result, the patrol finds an immediate danger to public health, safety and/or welfare and a compelling governmental interest, which requires emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The patrol believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 1, 2004, effective September 11, 2004, and expires March 9, 2005.

(22) Frame.

- (A) Inspect the frame.**
- (B) Reject any school bus if there are any visible cracks.**

~~[[22]]~~**(23) Out-of-Service Criteria.** The following items will result in buses being put out-of-service until needed repairs are made. These criteria will be used only by Missouri State Highway Patrol personnel and are not applicable at official inspection stations:

- (A) If there is a major exhaust leak in the exhaust system which dumps exhaust in front of the rear axle;
- (B) If there are major steering or suspension defects;
- (C) If there are major brake defects;
- (D) If the stop signal arm is inoperative;
- (E) If the front or rear tires have knots or exposed cord or the tread depth is less than four thirty-seconds inch (4/32") on the front tires or less than two thirty-seconds inch (2/32") on the rear tires when measured in any two (2) major grooves at three (3) locations spaced approximately equally around the outside of the tire;
- (F) If any emergency door is inoperable from either the inside or outside or any other emergency exit fails to open;
- (G) If the red overhead warning flashers are inoperative;
- (H) If the one-half inch (1/2") hex nut attached to one (1) end of a one-eighth inch (1/8") drawstring catches on the handrail and lodges between the handrail mounting bracket and the sheet metal body of the bus or the drawstring catches during the handrail drawstring test;
- (I) If not equipped with the crossing arm as required or if the crossing arm does not operate when the stop signal arm and overhead warning flashers are activated; *[or]*
- (J) If fuel is leaking from any part of the fuel system~~./~~; **or**
- (K) If the frame has any visible cracks.**

AUTHORITY: sections 307.360.2, RSMo 2000 and 307.375, RSMo Supp. [2003] 2004. Original rule filed Nov. 4, 1968, effective Nov.

14, 1968. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Sept. 1, 2004, effective Sept. 11, 2004, expires March 9, 2005. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 54—Exemptions and Federal Covered Securities**

EMERGENCY RESCISSION

15 CSR 30-54.215 Accredited Investor Exemption. This rule exempted offers and sales to accredited investors from the requirements of section 409.3-301 of the Missouri Securities Act of 2003.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly describes the accredited investor exemption.

EMERGENCY STATEMENT: This emergency rescission complies with the Missouri Securities Act of 2003. This emergency rescission is necessary to protect the health, safety and welfare by having a regulation that is consistent with and cites the proper authority under the Missouri Securities Act of 2003. As a result, the securities commissioner finds an immediate danger to the public health, safety and/or welfare and a compelling governmental interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rescission is limited to the circumstances creating the emergency and the procedures used by the Securities Division comply with the protections extended in the *Missouri and United States Constitutions*. The commissioner believes that it permits solicitation of accredited investors in such a manner that is best calculated to assure fairness to all interested persons and parties under the circumstances. This rule is founded on the NASAA model rule, which was reviewed by the Secretary of State's Securities Advisory Panel on August 12, 2004. This emergency rescission was filed September 1, 2004, effective September 11, 2004 and expires March 9, 2005.

AUTHORITY: sections 409.2-203 and 409.6-605, RSMo Supp. 2003. Original rule filed March 27, 1989, effective June 12, 1989. For intervening history, please consult the *Code of State Regulations*. Emergency rescission filed Sept. 1, 2004, effective Sept. 11, 2004, expired March 9, 2005. A proposed rescission covering this same material is published in this issue of the *Missouri Register*.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 54—Exemptions and Federal Covered Securities**

EMERGENCY RULE

15 CSR 30-54.215 Accredited Investor Exemption

PURPOSE: The purpose of this emergency rule is to more clearly describe the exemption of offers and sales to accredited investors from the requirements of sections 409.3-301 and 409.5-504 of the Missouri Securities Act of 2003.

EMERGENCY STATEMENT: This emergency rule complies with the Missouri Securities Act of 2003. This emergency rule is necessary to protect the health, safety and welfare by having a regulation that is consistent with and cites the proper authority under the Missouri Securities Act of 2003. As a result, the securities commissioner finds an immediate danger to the public health, safety and/or welfare and

a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and the procedures used by the Securities Division comply with the protections extended in the Missouri and United States Constitutions. The commissioner believes that it permits solicitation of accredited investors in such a manner that is best calculated to assure fairness to all interested persons and parties under the circumstances. This rule is founded on the NASAA model rule, which was reviewed by the Secretary of State's Securities Advisory Panel on August 12, 2004. This emergency rule was filed September 1, 2004, effective September 11, 2004 and expires March 9, 2005.

(1) The commissioner, pursuant to the provisions of section 409.2-203 of the Missouri Securities Act of 2003 (the Act), exempts any offer or sale of a security by an issuer in a transaction that meets the requirements of this rule from the requirements of section 409.3-301 and 409.5-504 of the Act. Sales of securities shall be made only to persons who are or the issuer reasonably believes are accredited investors. "Accredited investor" is defined in 17 CFR 230.501(a).

(2) The exemption is not available to an issuer that is in the development state that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(3) The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sale in reliance on this exemption within twelve (12) months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under section 490.3-301 of the Act or to an accredited investor pursuant to an exemption available under section 409.2-203 of the Act.

(4) The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of ten percent (10%) or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of such underwriter:

(A) Within the last five (5) years, has filed a registration statement which is the subject of a currently effective registration stop order entered by any state securities administrator or the United States Securities and Exchange Commission;

(B) Within the last five (5) years, has been convicted of any criminal offense in connection with the offer, purchase or sale of any security, or involving fraud or deceit;

(C) Is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or

(D) Is currently subject to any order, judgment or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

(5) Section (4) shall not apply if:

(A) The party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment or decree creating the disqualification was entered against such party;

(B) Before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or

(C) The issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under this section.

(6) A general announcement of the proposed offering may be made by any means.

(7) The general announcement shall include only the following information, unless additional information is specifically permitted by the commissioner:

(A) The name, address and telephone number of the issuer of the securities;

(B) The name, a brief description and price (if known) of any security to be issued;

(C) A brief description of the business of the issuer in twenty-five (25) words or less;

(D) The type, number and aggregate amount of securities being offered;

(E) The name, address and telephone number of the person to contact for additional information; and

(F) A statement that:

1. Sales will only be made to accredited investors;

2. No money or other consideration is being solicited or will be accepted by way of this general announcement; and

3. The securities have not been registered with or approved by any state securities agency or the U.S. Securities and Exchange Commission and are being offered and sold pursuant to an exemption from registration.

(8) The issuer, in connection with an offer, may provide information in addition to the general announcement under section (7), if such information:

(A) Is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or

(B) Is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.

(9) No telephone solicitation shall be permitted unless prior to placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

(10) Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this rule.

(11) The issuer shall file with the securities division a notice of transaction, a consent to service of process, a copy of the general announcement, and a registration fee in compliance with section 409.3-305(b) within fifteen (15) days after the first sale in this state.

AUTHORITY: sections 409.2-203 and 409.6-605, RSMo Supp. 2003. Original rule filed March 27, 1989, effective June 12, 1989. For intervening history, please consult the Code of State Regulations. Emergency rescission and rule filed Sept. 1, 2004, effective Sept. 11, 2004, expires March 9, 2005. A proposed rescission and rule covering this same material is published in this issue of the Missouri Register.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2002.

EXECUTIVE ORDER 04-19

WHEREAS, I have been advised by the Director of State Emergency Management Agency that the State of Florida is requesting assistance under the Emergency Mutual Assistance Compact (EMAC) in response to Hurricanes Frances and Ivan which is expected to make landfall over the weekend; and

WHEREAS, the State of Florida requests that Missouri provide communication assistance, generators, operators, and furnish ground support beginning September 10, 2004, and continuing; and

WHEREAS, on September 10, 2004, I directed the Missouri National Guard to initiate efforts to comply with the State of Florida's request and any other requests for the National Guard resulting in the hurricane response pursuant to the EMAC; and

WHEREAS, the EMAC is designed to protect the safety and welfare of the citizens in the affected participating EMAC states; and

WHEREAS, protection of the safety and welfare of the citizens in the affected communities requires an invocation of the provision of Section 44.415, RSMo and 41.480, RSMo.

NOW, THEREFORE, I, BOB HOLDEN, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by Section 44.415, RSMo and Section 41.480, RSMo do hereby declare that Missouri will implement the EMAC with the State of Florida to provide assistance because Florida will experience three hurricanes within one month, and I do hereby direct the Missouri State Emergency Management Agency to activate the EMAC plan. I further authorize the use of the Missouri National Guard to provide support to the Florida Division of Emergency Management.

This order shall terminate on October 31, 2004, unless extended in whole or in part.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 10th day of September 2004.

A handwritten signature in cursive script that reads "Bob Holden". The signature is written in black ink and is positioned above a horizontal line.

Bob Holden
Governor

ATTEST:

A handwritten signature in cursive script that reads "Matt Blunt". The signature is written in black ink and is positioned above a horizontal line.

Matt Blunt
Secretary of State

**EXECUTIVE ORDER
04-20**

WHEREAS, the poultry industry is an important industry to Missouri's economy; and

WHEREAS, maintaining and enhancing poultry production and processing, while addressing the environmental aspects of the industry, is critical to the long-term success of the industry; and

WHEREAS, there exists a need to identify and outline implementation strategies across all sectors of the poultry industry that increase economic benefits while decreasing negative environmental impacts on the industry; and

WHEREAS, during the 91st General Assembly, Second Regular Session, the Legislature authorized the formation of the Poultry Industry Committee ("Committee") through Senate Concurrent Resolution 47; and

WHEREAS, the Committee has been a forum for the coordination of information and resources to maintain and grow the poultry industry while protecting the environment; and

WHEREAS, the Committee will expire December 31, 2004, unless reauthorized:

NOW, THEREFORE, I, BOB HOLDEN, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby re-establish the Poultry Industry Committee.

The purpose of the Committee shall be to review, evaluate and implement programs or partnerships that address the economic impact, waste disposal issues and environmental impacts of the poultry industry.

The Committee shall be composed of twenty-three members, one member to be a member of the Senate to be appointed by the President Pro Tem of the Senate, one member to be a member of the House of Representatives to be appointed by the Speaker of the House, two county commissioners or their designees, a representative from the Food and Agricultural Policy Research Institute (FAPRI), a representative of the Environmental Protection Agency (EPA), a representative of the Department of Natural Resources, a representative of the United States Department of Agriculture, a representative of the Natural Resources Conservation Services (NRCS), a representative of the university extension system, a representative of the poultry federation, a representative of the Missouri Farmer's Association, a representative of the Farm Bureau, a representative of the Department of Conservation, a representative of the University of Missouri College of Agriculture, Food, and Natural Resources, a representative of the Southwest Missouri State University School of Agriculture, a representative of the University of Missouri Commercial Agriculture Program, a member appointed by the Resource Conservation & Development Council, a

representative of the Department of Economic Development, a representative of the Department of Agriculture, a representative of the Clean Water Commission, two active poultry farmers, two poultry industry contractors or processors, a person active in the processing/value-added portion of poultry waste, and one person from Missouri Farm Credit Services. Each member of the Committee shall serve until December 31, 2005.

The Committee may conduct its business by various means but shall meet no less than twice each year as a full Committee.

All state agencies shall cooperate with the Committee in carrying out its duties, including allowing access to closed records, provided that the Committee shall not disclose any identifying information contained in such records closed pursuant to statute or general order and any such information in the custody of the Committee shall not be discoverable to the same extent as when in the custody of the parent agency.

Members shall serve without compensation. The Office of Administration shall provide funding, administrative support, and staff for the effective operation of the Committee. The Committee shall work to implement positive measures and solutions and shall provide a progress report on implementation measures in a report to the Governor, Speaker of the House, and President *Pro Tem* of the Senate, such report to be completed upon expiration of the Committee's authority under this order.

Unless reauthorized, the Poultry Industry Committee shall terminate December 31, 2005.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 14th day of September, 2004.

Bob Holden
Governor

ATTEST:

Matt Blunt
Secretary of State

**EXECUTIVE ORDER
04-21**

WHEREAS, Missouri's forests are a major contributor to the state economy through tourism, harvest of timber, and forest products; and

WHEREAS, management of timber resources and expansion of timber and forest product value is a critical element of the long term success of the industry and economic health of the state; and

WHEREAS, nearly 35,000 Missourians derive their employment directly from wood products, drawing nearly one-half billion dollars in compensation annually; and

WHEREAS, 85 percent of Missouri's 14 million forested acres are owned by private landowners; and

WHEREAS, Missouri's 1,000 tree farms, encompassing over 325,000 acres, contribute to the \$3 billion in economic activity in the wood industry; and

WHEREAS, coordination of state resources and industry expertise will help grow both the demand for, and supply of, Missouri wood products while balancing the stewardship of forest lands and preserving the state's natural resources.

NOW THEREFORE I, BOB HOLDEN, GOVERNOR OF THE STATE OF MISSOURI, by the power vested in me by the laws and the Constitution of the State of Missouri do hereby order and direct the creation of the Forest Utilization Committee within the Missouri Department of Conservation.

The purpose of the Committee shall be to:

1. Facilitate development of a coordinated network among state agencies, universities and associations to document, evaluate, and monitor the economic contribution, environmental impact, and potential of the forest products industry;
2. Develop a strategic roadmap for growing the value of the state's forest products industry and maintaining the state's valued natural resources;
3. Identify specific opportunities for public-private and interagency partnership in the development of forest products industry.

The Committee shall be composed of sixteen members, one member to be a member of the Missouri Senate to be appointed by the President Pro Tem of the Senate, one member to be a member of the Missouri House of Representatives to be appointed by the Speaker of the House, one forest landowners representing small forestry holdings with owners of less than two hundred acres of timber and one representative of large forestry holdings with

greater than two hundred acres of timber, one representative from the Resource Conservation and Development Councils, one representative from the Missouri Department of Natural Resources, one representative of the United States Department of Agriculture Forest Service's North Central Forest Experimental Station, one representative from the University of Missouri's School of Natural Resources, one representative of the Society of American Foresters, one representative from the Missouri Department of Conservation's Division of Forestry, one representative of the Missouri Forest Products Association, one representative of the Missouri Department of Agriculture Business Development Division, one representative of a large-volume active sawmill and one representative of a small-volume active sawmill, one member from a major agriculture lending agency, and one member from an environmental protection public interest group. Each member of the committee shall serve until December 31, 2005. A chairman, vice-chairman, and secretary shall be elected by the membership of the committee to conduct the business of the committee.

Commission members shall be appointed by the Governor, except where noted, and receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties on the commission.

All state agencies shall cooperate with the Committee in carrying out its duties, including allowing access to closed records, provided that the Committee shall not disclose any identifying information contained in such records closed pursuant to statute or general order and any such information in the custody of the Committee shall not be discoverable to the same extent as when in the custody of the parent agency.

The Missouri Department of Conservation shall coordinate available resources to provide all necessary staff and support services and shall secure payment of all costs required by the commission to hold commission meetings, to maintain records of official acts, and to conduct all other business of the commission. The commission shall meet at least twice a year and at any such time that it deems necessary. Meetings may be called by the chairperson or by a petition signed by a majority of the members of the commission. Ten days' notice shall be given in writing to such members prior to the meeting date. A simple majority of the members of the commission shall be present to constitute a quorum. Proxy voting shall not be permitted.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 14th day of September, 2004.

Bob Holden
Governor

ATTEST:

Matt Blunt
Secretary of State