

Volume 26, Number 13

Pages 1301-1386

July 2, 2001



MATT BLUNT

SECRETARY OF STATE

MISSOURI
REGISTER

The *Missouri Register* is an official publication of the state of Missouri, under the authority granted to the secretary of state by sections 536.015 and 536.033, RSMo 2000. Reproduction of rules is allowed; however, no reproduction shall bear the name *Missouri Register* or "official" without the express permission of the secretary of state.

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

MAT T BLUNT

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

DIRECTOR

LYNNE C. ANGLE

•

ADMINISTRATIVE STAFF

SANDY SANDERS

SARAH STROBEL

•

EDITORS

BARBARA McDOUGAL

KATHREN CHOATE

•

ASSOCIATE EDITORS

JAMES McCLURE

SALLY L. REID

CURTIS W. TREAT

•

PUBLISHING STAFF

WILBUR HIGHBARGER

CARLA HERTZING

JOHN STEGMANN

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO

Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER

Office of the Secretary of State

Administrative Rules Division

PO Box 1767

Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is <http://mosl.sos.state.mo.us/moreg/moreg.htm> and the CSR is <http://mosl.sos.state.mo.us/csr/csr.htm>. These web sites contain rulemakings and regulations as they appear in the Registers and CSR. These web sites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo 2000. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications.

The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.



IN THIS ISSUE:

EMERGENCY RULES

Department of Agriculture
 Market Development1305
Department of Social Services
 Division of Medical Services1307

PROPOSED RULES

Department of Conservation
 Conservation Commission1308
Department of Economic Development
 State Committee of Marital and Family Therapists1309
 Public Service Commission1312
Department of Elementary and Secondary Education
 Division of School Improvement1320
Department of Labor and Industrial Relations
 Administration1322
Department of Natural Resources
 Air Conservation Commission1322
Department of Revenue
 Director of Revenue1329
Department of Social Services
 Division of Medical Services1329
Elected Officials
 Secretary of State1331

Department of Mental Health

Division of Mental Retardation and Developmental
 Disabilities1347
Department of Revenue
 Director of Revenue1360
Department of Social Services
 Division of Medical Services1360
Department of Health
 Division of Health Standards and Licensure1360

IN ADDITIONS

Department of Economic Development
 Division of Credit Unions1363
Department of Health
 Missouri Health Facilities Review
 Committee1363

BID OPENINGS

Office of Administration
 Division of Purchasing1364

RULE CHANGES SINCE UPDATE1365
EMERGENCY RULES IN EFFECT1373
REGISTER INDEX1374

ORDERS OF RULEMAKING

Department of Conservation
 Conservation Commission1338
Department of Economic Development
 Division of Finance1341
 Public Service Commission1342
 Missouri Board for Respiratory Care1346

Register Filing Deadlines	Register Publication	Code Publication	Code Effective
March 1, 2001	April 2, 2001	April 30, 2001	May 30, 2001
March 15, 2001	April 16, 2001	April 30, 2001	May 30, 2001
March 30, 2001	May 1, 2001	May 31, 2001	June 30, 2001
April 13, 2001	May 15, 2001	May 31, 2001	June 30, 2001
May 1, 2001	June 1, 2001	June 30, 2001	July 30, 2001
May 15, 2001	June 15, 2001	June 30, 2001	July 30, 2001
June 1, 2001	July 2, 2001	July 31, 2001	Aug. 30, 2001
June 15, 2001	July 16, 2001	July 31, 2001	Aug. 30, 2001
June 29, 2001	Aug. 1, 2001	Aug. 31, 2001	Sept. 30, 2001
July 13, 2001	Aug. 15, 2001	Aug. 31, 2001	Sept. 30, 2001
Aug. 1, 2001	Sept. 4, 2001	Sept. 30, 2001	Oct. 30, 2001
Aug. 15, 2001	Sept. 17, 2001	Sept. 30, 2001	Oct. 30, 2001
Aug. 31, 2001	Oct. 1, 2001	Oct. 31, 2001	Nov. 30, 2001
Sept. 14, 2001	Oct. 15, 2001	Oct. 31, 2001	Nov. 30, 2001
Oct. 2, 2001	Nov. 1, 2001	Nov. 30, 2001	Dec. 30, 2001
Oct. 16, 2001	Nov. 15, 2001	Nov. 30, 2001	Dec. 30, 2001
Nov. 1, 2001	Dec. 3, 2001	Dec. 31, 2001	Jan. 30, 2002
Nov. 15, 2001	Dec. 17, 2001	Dec. 31, 2001	Jan. 30, 2002

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.

Missouri Depository Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Depository Documents Law (section 181.100, RSMo 2000), are available in the listed depository libraries, as selected by the Missouri State Library:

Jefferson County Library PO Box 1486, 3021 High Ridge High Ridge, MO 63049-1486 (314) 677-8689	Learning Resources Center Mineral Area College PO Box 1000 Park Hills, MO 63601-1000 (573) 431-4593	B.D. Owens Library Northwest Missouri State University 800 University Drive Maryville, MO 64468-6001 (660) 562-1841	School of Law University of Missouri-Columbia 224 Hulston Hall Columbia, MO 65211-0001 (573) 882-1125
Jefferson College Library 1000 Viking Drive Hillsboro, MO 63050-2441 (314) 789-3951	Cape Girardeau Public Library 711 N. Clark Cape Girardeau, MO 63701-4400 (573) 334-5279	River Bluffs Regional Library 927 Felix Street St. Joseph, MO 64501-2799 (816) 232-8151	Central Methodist College Smiley Memorial Library 411 Central Methodist Square Fayette, MO 65248-1198 (660) 248-6292
St. Louis Public Library 1301 Olive St. St. Louis, MO 63103-2389 (314) 539-0376	Kent Library Southeast Missouri State University One University Plaza Cape Girardeau, MO 63701-4799 (573) 651-2757	Missouri Western State College Hearnes Learning Resources Ctr. 4525 Downs Drive St. Joseph, MO 64507-2294 (816) 271-5802	Library University of Missouri-Rolla 1870 Miner Circle Rolla, MO 65409-0060 (573) 341-4007
St. Louis University Law Library 3700 Lindell Blvd. St. Louis, MO 63108-3478 (314) 977-2756	Riverside Regional Library PO Box 389, 204 South Union St. Jackson, MO 63755-0389 (573) 243-8141	Library North Central Missouri College PO Box 111, 1301 Main Street Trenton, MO 64683-0107 (660) 359-3948	Kinderhook Regional Library 135 Harwood Ave. Lebanon, MO 65536-3017 (417) 532-2148
Eden Theological Seminary/ Webster University Eden/Webster Library 475 East Lockwood Ave. St. Louis, MO 63119-3192 (314) 961-2660	Rutland Library Three Rivers Community College 2080 Three Rivers Blvd. Poplar Bluff, MO 63901-2393 (573) 840-9656	Missouri Southern State College Spiva Library 3950 East Newman Road Joplin, MO 64801-1595 (417) 625-9770	ESTEP Library Southwest Baptist University 1601 S. Springfield Street Bolivar, MO 65613-2597 (417) 326-5281
Thomas Jefferson Library University of Missouri-St. Louis 8001 Natural Bridge Road St. Louis, MO 63121-4499 (314) 516-5084	Charles F. Curry Library William Jewell College 500 College Hill Liberty, MO 64068-1896 (816) 781-7700	Missouri State Library 600 West Main, PO Box 387 Jefferson City, MO 65102-0387 (573) 751-3075	Barry-Lawrence Regional Library 213 6th St. Monett, MO 65708-2147 (417) 235-6646
Washington University Washington University Law Library Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6484	Ward Edwards Library Central Missouri State University 142 Edwards Library Warrensburg, MO 64093-5020 (660) 543-4149	Missouri State Archives 600 West Main, PO Box 778 Jefferson City, MO 65102-0778 (573) 526-6711	Lyons Memorial Library College of the Ozarks General Delivery Point Lookout, MO 65726-9999 (417) 334-6411
St. Louis County Library 1640 S. Lindbergh Blvd. St. Louis, MO 63131-3598 (314) 994-3300	Kansas City Public Library 311 East 12th St. Kansas City, MO 64106-2454 (816) 701-3400	Elmer Ellis Library University of Missouri-Columbia 104 Ellis Library Columbia, MO 65211-5149 (573) 882-6733	West Plains Campus Library Southwest Missouri State University 123 N. Minnesota West Plains, MO 65775-3414 (417) 256-9865
Maryville University Library 13550 Conway Road St. Louis, MO 63141-7232 (314) 529-9494	Law Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65201-7298 (573) 882-7083	Springfield-Greene County Library PO Box 737, 397 E. Central Springfield, MO 65801-0760 (417) 869-4621
St. Charles City-County Library Middendorf-Kredell Branch 2750 Hwy K O'Fallon, MO 63366-7859 (314) 978-7997	University of Missouri-Kansas City Miller Nichols Library 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-1281	Daniel Boone Regional Library PO Box 1267, 100 West Broadway Columbia, MO 65205-1267 (573) 443-3161	Meyer Library Southwest Missouri State University PO Box 175, 901 S. National Springfield, MO 65804-0095 (417) 836-4533
Truman State University Pickler Memorial Library 100 E. Normal Kirksville, MO 63501-4221 (660) 785-7416			

HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are divided 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 in 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—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

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 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 180 calendar days or 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 10—Market Development Chapter 5—Price Reporting

EMERGENCY RESCISSION

2 CSR 10-5.010 Price Reporting Requirements for Livestock Purchases by Packers. This rule specified the requirements of sections 277.200 through 277.215, RSMo, which may be confusing or subject to different interpretations by interested members of the public.

PURPOSE: This rule is being rescinded because a new rule 2 CSR 10-5.010 has been developed to clarify the 277.200 through 277.215, RSMo, which governs the purchase of livestock in this state by packers, and which may be confusing or subject to different interpretations by interested members of the public.

EMERGENCY STATEMENT: This emergency rescission is necessary to allow the adoption of a new rule 2 CSR 10-5.010 which will clarify the requirements of sections 277.200 through 277.215, RSMo and address issues that the current version of 2 CSR 10-5.010 does not address or does not adequately address. Without emergency promulgation of this rescission, uncertainty will continue to exist which is allowing some livestock packers to interpret this law to the disadvantage of the state's livestock producers. Missouri producers regularly generate significant dollar amounts in livestock sales, having generated \$2.47 billion in 1999 (2000

figures are not yet available). These sales significantly affect the economic health of this state, and serve, employ, and support a substantial number of the state's citizens. If the current 2 CSR 10-5.010 is not rescinded and replaced with the new 2 CSR 10-5.010, which is also being filed and adopted simultaneously with this rescission, Missouri producers and the state's economy risk losing billions of dollars in livestock sales.

The emergency rulemaking process will allow the Department of Agriculture to fulfill duties required by law while causing little or no disruption to daily commerce for the most economically significant segment of Missouri's economy.

The agency has weighed the compelling governmental interest against the due process rights of the public to notice and comment. In light of a potential threat to the public welfare, there is a compelling governmental interest to enact this rescission through emergency rulemaking.

The scope of this rescission is limited to the circumstances which created this emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. In developing this rescission the agency has encouraged discussion with interested parties and provided them the opportunity to offer their comments. The agency believes this emergency rescission to be fair to all persons and parties under the circumstances. This emergency rescission was filed on June 15, 2001, effective June 25, 2001, and expires February 28, 2002.

AUTHORITY: section 277.215, RSMo Supp. 1999. This rule previously filed as 2 CSR 10-5.005. Emergency rule filed Sept. 13, 1999, expired March 2, 2000. Original rule filed Oct. 15, 1999, effective April 30, 2000. Emergency rescission filed June 15, 2001, effective June 25, 2001, expires Feb. 28, 2002.

Title 2—DEPARTMENT OF AGRICULTURE Division 10—Market Development Chapter 5—Price Reporting

EMERGENCY RULE

2 CSR 10-5.010 Rules Governing Livestock Purchases by Packers

PURPOSE: The purpose of Sections 277.200 through 277.215 is to make it unlawful for a meat packers to offer to pay different prices to different livestock producers in Missouri in the same market and during the same marketing period without sound economic reasons for doing so. This rule clarifies the requirements of sections 277.200 through 277.215, RSMo, which may be confusing or subject to differing interpretations by interested members of the public.

EMERGENCY STATEMENT: The director of agriculture has determined that emergency procedures should be implemented to establish rules for the enforcement of the Missouri Livestock Packers Law. Sections 277.200 through 277.215 require that packers shall not discriminate in prices paid or offered to be paid to sellers of livestock, except in certain instances packers may offer differential prices. Section 277.215 RSMo provides the Department of Agriculture shall promulgate rules necessary to implement the act. Until this law is further defined by the rules process, uncertainty will exist that may allow some packers to interpret this law to the disadvantage of the state's producers. There is, therefore, a compelling governmental interest to clarify the statute to maintain an even flow of livestock to market. Clearly, the packers' interpretation of this new law could pose a threat to public welfare in Missouri. The detrimental economic impact on Missouri citizens

could be enormous. The Missouri agriculture industry, which generated \$4.26 billion dollars in farm receipts in Missouri in 1999, derives more than half of all income from livestock sales. Packers must have the information contained in these rules to comply with the law.

The emergency rulemaking process will allow the Department of Agriculture to fulfill duties required by law while causing little or no disruption to daily commerce for the most economically significant segment of Missouri's economy.

The agency has weighed the compelling governmental interest against the due process rights of the public to notice and comment. In light of a potential threat to the public welfare, there is a compelling governmental interest to enact this rule through emergency rulemaking.

The scope of this rule is limited to the circumstances which created this emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this rule the agency has encouraged discussion with interested parties and provided them the opportunity to offer their comments. The agency believes this emergency rule to be fair to all persons and parties under the circumstances. This emergency rule was filed on June 15, 2001, effective June 25, 2001, and expires February 28, 2002.

(1) The following definitions shall apply to the interpretation and enforcement of sections 277.200 through 277.215, RSMo:

(A) "Market"—defined as a geographic area within which the conditions which affect the price for livestock are identical, but shall in no instance be greater in size than a geographic circle with a diameter of thirty miles.

(B) "Livestock Market"—defined as a place where livestock are offered for sale or purchased based upon weight, appearance or reputation by means of a bid and ask system. The operator of a livestock market is excluded by statute from the requirements of sections 277.200 through 277.215, RSMo for offers made or prices paid for animals offered for sale through this market.

(C) "Marketing Period"—defined as any period of time during which the conditions affecting the price of livestock within a particular Market, including, but not limited to quantity demanded, remain constant.

(D) "Livestock Auction Agency"—defined as a place where livestock are offered for sale or purchased based upon weight, appearance or reputation by means of an auction. The operator of a livestock auction agency is excluded by statute from the requirements of sections 277.200 through 277.215, RSMo for offers made or prices paid for animals offered for sale through this agency.

(E) "Discriminate in prices paid or offered"—defined as offering, or paying, different prices for livestock unless such price differential is based on a sound economic reasons, including, but not limited to the following exceptions:

1. An anticipated difference in the date when the animals will be slaughtered or are intended to be slaughtered; or
2. An anticipated difference in the time within a kill shift when the animals will be or are intended to be slaughtered (e.g. premiums may be warranted for animals to start or to complete a kill schedule); or
3. A difference in the marketing period when the offer is made; or
4. A difference in the marketing period when the offer is accepted; or
5. A difference in the date when the price is to be paid; or
6. A difference in the packing plant where the animals will be or it is intended will be slaughtered; or
7. A difference in location of the animals. The price difference associated with location differences shall not be greater than can be justified by differences in cost of transportation, shrinkage,

morbidity, mortality, and time associated with moving the livestock to slaughter; or

8. A difference in the number of animals being offered for sale. The price difference associated with lot size shall not be greater than can be justified by differences in transportation and transactions costs; or

9. A difference in the individual making the offer. Since packers cannot maintain continuous communication with all their buyers, different buyers may be offering different prices at the same time; or

10. A difference in expected transactions costs associated with acquisition and payment; or

11. A response to a competitor's bid for the livestock; or

12. An agreement or contract for delivery of livestock to a packer; or

13. A forward contract based on the futures market; or

14. A difference in the type of market where the animals are offered for sale. The type of market is determined by the location of the animal when transfer of ownership to the packer occurs. Market types include but are not limited to—

- A. the farm where the livestock are fed
- B. a public sale barn or auction
- C. a terminal market or stockyards
- D. a buying station operated by a packer
- E. a buying station operated by a non-packer
- F. a collection point which includes holding and loading facilities
- G. a packing plant
- H. other

Because of cost differences associated with purchasing livestock through different types of markets, prices offered or paid for livestock by "packers" need not be the same across market types.

15. Perceived differences in quality of livestock.

(F) "Quality of livestock"—discrimination only applies to offering or paying different prices for the same quality of livestock. Differences in quality of livestock can be based upon a number of factors, including, but not limited to the following:

1. Animals of different species; or
2. Animals of different sex; or
3. Castrated and intact males; or
4. Spayed and intact females; or
5. Animals of different age; or
6. Animals of different weight; or
7. Animals of different breeds, actual or apparent; or
8. Animals with different quality grades; or
9. Open, bred and lactating animals; or
10. Animals with physical injury or impairment; or
11. Diseased animals; or
12. Animals which yield different dressing percentages; or
13. Animals which yield carcasses with different percent lean; or
14. Animals which produce meat of visibly different quality; or
15. Animals which produce hides of visibly different quality; or
16. Animals from herds with known carcass characteristics based on previous animals slaughtered; or
17. Animals from herds which participate in quality certification programs such as Pork Quality Assurance; or
18. Animals raised under special management programs associated with feed, housing, genetics, health programs, etc. such as "organic" or "free-range" or "lean"; or
19. Others factors such as the age, health, appearance, actions, or nature of the Livestock as it relates to the ease of transporting, killing, or processing the Livestock, or as it relates to the anticipated carcass quality of the Livestock.

(G) "Missouri resident"—defined as any—

1. Individual residing or domiciled in Missouri;

2. Missouri corporation
 3. Missouri limited liability company (LLC)
 4. Partnership doing business in Missouri
- (H) Direct purchases—shall include but shall not be limited to—
1. Cash;
 2. Grade and yield;
 3. Grid;
 4. Formula pricing.

(2) The nature of public auction insures that discrimination does not occur. The open bidding process on livestock already delivered to a specific place and occurring at a given time and with the stock present for all to view allows the final and successful bidder to meet the requirements specified in section 277.203, RSMo. Therefore sections 277.200 through 277.215, RSMo, shall not apply to a “packer” or packer’s agent who purchases or solicits livestock at a public auction market or stockyards.

(3) Since a Packer cannot be expected to buy all of the livestock offered for sale, a refusal to bid for some animals or a bid of \$0 shall not be considered to be price discrimination or a violation of sections 277.200 through 277.215, RSMo.

(4) If a packer makes a differential payment to a seller of livestock during a particular marketing period, the packer shall print information it uses to make differential pricing, including the payment method for animal quality, carcass merit, transportation costs, acquisition costs, and make such written information generally available to those who request it. Such information may be transferred electronically or manually. Such written information shall include an offer to enter into an agreement for the delivery of livestock at a specified date or time according to the same terms and conditions offered to other sellers, unless those terms would not be available because of one of the exceptions to discrimination listed hereinabove in (1)(E).

AUTHORITY: section 277.215, RSMo 2000. This rule previously filed as 2 CSR 10-5.005. Emergency rule filed Sept. 3, 1999, effective Sept. 13, 1999, expired March 2, 2000. Original rule filed Oct. 15, 1999, effective April 30, 2000. Emergency rescission and rule filed June 15, 2001, effective June 25, 2001, expires Feb. 28, 2002.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program**

EMERGENCY AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA).
The division is amending section (8).

PURPOSE: The Emergency Amendment amends section (8). This amendment will lower the Federal Reimbursement Allowance (FRA) Assessment for SFY 2001 from 5.90% to 5.50%.

EMERGENCY STATEMENT: The Division of Medical Services finds that this Emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date in that the Emergency amendment made adjustments to the Federal Reimbursement Allowance for SFY 2001 to ensure access to hospital services for indigent and Medicaid recipients at hospitals which have relied on Medicaid payments in meeting those needs. The Division of Medical Services also finds an immediate danger to public health and welfare which requires emergency actions. If this Emergency amendment is not enacted it will cause significant cash flow shortages and financial strain on all hospitals which service more than 600,000 Medicaid recipients. This will, in turn, result

in an adverse impact on the health and welfare of those in need of medical care and treatment. This Emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. Therefore, the division believes this Emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed June 8, 2001, effective June 18, 2001, and expires December 8, 2001.

(8) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2001. The FRA assessment for State Fiscal Year 2001 shall be determined at the rate of *[five and ninety hundredths percent (5.90%)] five and fifty hundredths percent (5.50%)* of the hospital’s net operating revenues and other operating revenues defined in paragraphs (1)(A)12., and 13., as determined from information reported in the hospital’s 1997 base year cost report. **The State Fiscal Year (SFY) 2001 FRA Assessment shall be used as an estimate of the SFY 2002 FRA Assessment until such time as the regulation establishing the SFY 2002 FRA Assessment is effective.**

AUTHORITY: sections 208.201, [and] 208.453, RSMo 1994] and 208.455, [Supp. 1999] RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 8, 2001, effective June 18, 2001, expires Dec. 8, 2001. A proposed amendment covering this same material is published in this issue of the Missouri Register.