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MATT BLUNT

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

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

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

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

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 5—Missouri [World War II] Veterans’
Recognition Program

EMERGENCY AMENDMENT

11 CSR 10-5.010 Missouri [World War II] Veterans’ Recognition Program. The division is amending the titles of the rule and chapter and sections (1), (4), (6) and (8).

PURPOSE: This amendment expands the recognition program to include Korean Conflict veterans who were honorably discharged and reside in Missouri. Further, the amendment also alters the World War II Veterans’ Recognition Program by extending by one year the application deadline and also expands the application eligibility criteria.

EMERGENCY STATEMENT: This emergency amendment informs Missouri World War II veterans and their spouses that the period for applying for recognition awards has been extended and that the eligibility criteria has been expanded to allow the eldest living survivor to apply for the award. This amendment adds the Korean Conflict veterans, who were honorably discharged and reside in Missouri to make application to the Veteran Recognition program for the Korean

Conflict medallion, medal and a certificate of appreciation. This emergency amendment is necessary because of the compelling governmental interest to honor Missouri’s four hundred thirty-five thousand (435,000) World War II and one hundred fifty thousand (150,000) Korean Conflict veterans for their patriotic service to our state and nation. Due to the age of these veterans the earliest effective program start-up date is critical. This law extending the application period leaves little time to notify Missouri’s veterans of their award eligibility and implementing an emergency amendment for the program will ensure that Missouri’s compelling need to recognize these veterans will be achieved in a timely and comprehensive manner. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment complies with the protections extended in the Missouri and United State Constitutions. The Adjutant General believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed July 25, 2003, effective August 21, 2003 and expires February 17, 2004.

(1) Definitions—as used in this rule, unless the context clearly indicates otherwise, the following terms shall mean:

(G) Director [World War II Veterans’ and “D-Day” Invasion of Europe] Missouri Veterans’ Recognition Program—Person designated by the Adjutant General to administer the [World War II] Missouri Veterans’ Recognition Program;

(J) Eligible Korean Conflict Veteran—Any person defined as a veteran by the United States Department of Veterans’ Affairs, who honorably served on active duty in the United States military service at anytime beginning June 27, 1950 and ending January 31, 1955 provided—

1. That such veteran was a legal resident of the state of Missouri on August 28, 2003 or was a legal resident of this state at the time of his or her death; and

2. Such veteran was honorably separated or discharged from military service or is still in active service in honorable status, or was a legal resident of this state at the time of his or her death;

[(J)](K) Honorably separated—The release from military service or duty under honorable conditions;

[(K)](L) Honorable status—Attesting to creditable conduct while serving on active duty in the military;

[(L)](M) Intestate survivor—The survivor of a World War II veteran who has died without a will;

(N) Eldest living survivor—the eldest survivor of a veteran connected by blood or affinity;

[(M)](O) Jubilee of Liberty Medal—A medal created by the Regional Council of Normandy, France, in 1994 to commemorate the 50th anniversary of the June 6, 1944, “D-Day” invasion of Europe;

(P) Korean Conflict—The United States led United Nations forces to defend South Korea from North Korean invaders aided by China and the former Soviet Union, beginning June 27, 1950 and ending January 31, 1955;

(Q) Korean Conflict Veterans’ Recognition Award Fund—As defined in section 42.206, RSMo, consisting of all gifts, donations and bequests to the fund to be administered by the Adjutant General;

[(N)](R) Legal resident—A person (veteran) whose official United States mailing address is within the boundaries of the state of Missouri;

[(O)](S) Medal—A small object usually metal in nature bearing an emblem or picture that is issued to commemorate a person’s participation in an event or is awarded for excellence or achievement;

[(P)](T) Medallion—An object or coin, usually round or oval in shape, resembling a medal;

/(O)/(U) Replica—A close reproduction or facsimile of the original;

/(R)/(V) Spouse—Married person, i.e.: husband, wife;

/(S)/(W) Veteran—Any person defined as a veteran by the United States Department of Veterans' Affairs or its successor agency;

/(T)/(X) Veterans Commission—The commission created by section 42.007, RSMo;

/(U)/(Y) World War II—The World War beginning December 7, 1941, and ending December 31, 1946;

/(V)/(Z) World War II Veterans' Recognition Award Fund—As defined in section 42.195, RSMo, consisting of gifts, bequests, and donations to be administered by the Adjutant General.

(4) To be eligible for the World War II or **Korean Conflict** Veterans' Recognition Awards, the veteran must:

(A) Have served on active duty in the United States military service at anytime beginning December 7, 1941, and ending December 31, 1946 **for the World War II award; and June 27, 1950, and ending January 31, 1955 for the Korean Conflict award;**

(B) Be a legal resident of Missouri on August 28, 2000 **for World War II veteran and August 28, 2003 for the Korean Conflict veteran** or was a legal resident of this state at the time of his or her death; and

(D) Any **veteran, spouse or eldest living survivor** of a veteran, who is entitled to a World War II **and Korean Conflict** recognition award under this rule but who died prior to having made application for the award **and has not previously received the award**, may apply.

(6) World War II, *[and]* "D-Day" Invasion of Europe, **and Korean Conflict** veterans, to obtain authorized medals, medallions, and certificates, must complete an application form and provide copies of appropriate *[World War II]* **military** service record verification forms to the Office of the Adjutant General, Attention: Director, *[WWII]* **Missouri Veterans' Recognition Program**, 2303 Militia Drive, Jefferson City, MO 65101-1203. *[Applications]* **World War II and Jubilee of Liberty award applications** must be submitted anytime after January 1, 2001, and before *[July 1, 2003]* **July 1, 2004. Korean Conflict Award applications must be submitted anytime after January 1, 2004, and before January 1, 2005.** Applications and service forms will not be returned and will become property of the state of Missouri.

(8) If any person dies after applying for a medallion, medal and a certificate pursuant to sections 42.170 to *[42.190]* **42.206**, RSMo, and such person would have been entitled to the medallion, medal, and the certificate, the Adjutant General shall award the medallion, medal, and the certificate in the following order:

(A) To the spouse of the deceased veteran **or eldest living survivor**; or

AUTHORITY: section 42.175, RSMo [2000] Supp. 2002. Original rule filed Sept. 14, 2000, effective March 30, 2001. For intervening history, please consult the Code of State Regulations. Emergency amendment filed July 25, 2003, effective Aug. 21, 2003, expires Feb. 17, 2004. A proposed amendment 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 03-15

WHEREAS, a vibrant and growing small business sector is critical to creating jobs in a dynamic economy; and

WHEREAS, small businesses representing a diverse cross-section of the State's economy, population and geography in the areas of manufacturing, tourism, agriculture, technology, construction, finance, transportation, insurance, real estate, retail, services and others have played a vital role in the continuing development of a stable and diverse Missouri economy; and

WHEREAS, when adopting regulations to protect the health, safety, and economic welfare of Missouri citizens, executive agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on small business employers; and

WHEREAS, uniform regulatory and reporting requirements can impose unnecessary and disproportionately burdensome demands including legal, accounting, and consulting costs upon small businesses with limited resources; and

WHEREAS, the failure to recognize differences in the scale and resources of regulated businesses can adversely affect competition in the marketplace, discourage innovation, restrict improvements to productivity, create entry barriers in many industries, and discourage potential entrepreneurs from introducing beneficial products and processes; and

WHEREAS, alternative regulatory approaches that do not conflict with the stated objective of applicable statutes may be available to minimize the significant economic impact of rules on small businesses.

WHEREAS, the process by which state regulations are developed and adopted should include the ideas and comments of small businesses and to examine the impact of proposed rules; and

WHEREAS, it is important to review new regulations for compatibility with existing requirements affecting small business as well as to review existing rules that regulate small businesses; and

NOW, THEREFORE, I, Bob Holden, Governor of the State of Missouri, by the virtue of the powers vested in me through the constitution and the laws of the state of Missouri, do hereby create and establish the Missouri Small Business Regulatory Fairness Board (hereinafter, the Board). For administrative purposes, the Board shall be assigned to the Missouri Department of Economic Development. By these same powers, I also do hereby direct each department or agency of state government to determine whether each proposed rule will have an economic impact on small businesses, and to take the following steps accordingly:

Section 1. Definitions

As used in this executive order, unless the context clearly indicates otherwise the following terms mean:

- (1) "Affected small business" or "affects small business", any requirement imposed upon a small business through a state agency's proposed rule that will cause direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business;
- (2) "State Agency", has the same meaning as set forth in section 536.010(5), RSMo;
- (3) "Small business", a for-profit enterprise consisting of fewer than fifty (50) full or part-time employees.

Section 2. Small Business Impact Statements

Prior to submitting proposed rules for adoption, amendment, revision, or repeal, the state agency shall determine whether the proposed rules affect small businesses and, if so, the availability and practicability of less restrictive alternatives that could be implemented to achieve the same results of the proposed rule. This requirement shall not apply to emergency rulemaking pursuant to section 536.025, RSMo. This requirement shall be in addition to the fiscal note requirement of sections 536.200 to 536.210.

If the proposed rules affect small businesses, the state agency shall prepare a small business impact statement to be submitted to the Secretary of State and the Joint Committee on Administrative Rules with the proposed rules. A copy of the proposed rules and the small business impact statement shall also be filed with the Board on the same date as they are filed with the Secretary of State. The statement shall provide a reasonable determination of the following:

- (1) The type of small businesses that will be directly affected by, bear the cost of, or directly benefit from the proposed rules;
- (2) A description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected;
- (3) In dollar amounts, the increase in the level of direct costs, such as fees or administrative penalties, and indirect costs, such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance if such costs are capable of determination;
- (4) The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used, if such costs are capable of determination;
- (5) The methods the agency considered or used to reduce the impact on small businesses such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating techniques;
- (6) How the agency involved small businesses in the development of the proposed rules; and
- (7) A comparison of the proposed rule to any comparable federal, state, or county standards.

Any proposed rule that is required to have a small business impact statement but does not include such a statement shall be invalid and the Secretary of State should not publish the rule. If the state agency determines that its proposed rule does not affect small business, the state agency shall so certify this finding in the transmittal letter to the Secretary of State, stating that it has determined that such proposed rule will not have an economic impact on small businesses.

Section 3. Exceptions to Small Business Impact Statement Requirement

This executive order shall not apply where the rule is being promulgated on an emergency basis, where the rule is federally mandated, or where the rule substantially codifies existing federal or state law. Notwithstanding the provisions of this section, federally mandated regulations are subject to the federal Regulatory Flexibility Act as amended by the Small Business Regulatory and Enforcement Fairness Act of 1996, P.L. 96-354, as amended by P.L. 104-121. Any federally mandated regulations that do not comply with these acts shall be subject to this executive order.

Section 4. Missouri Small Business Regulatory Fairness Board

The Board shall be composed of nine members appointed in the following manner:

- (1) One member who is the chair of the minority business advocacy commission;
- (2) One member appointed by the president pro tempore of the Senate;
- (3) One member appointed by the minority leader of the Senate;
- (4) One member appointed by the speaker of the House of Representatives;
- (5) One member appointed by the minority leader of the House of Representatives; and
- (6) Four members appointed by the Governor, two of whom shall be public members.

Each member of the Board, except for the public members and the chair of the minority business advocacy commission, shall be a current or former owner or officer of a small business. All members of the Board shall represent a variety of small businesses, both rural and urban, and from a variety of geographical areas of this state, provided that no more than two members shall represent the same type of small business.

Members of the Board shall serve a term of three years and may be re-appointed at the conclusion of the term. No member shall serve more than three consecutive terms. Appointments shall be made so that one-third of the membership of the Board shall terminate each year. The governor shall appoint the initial chairperson of the Board and a majority of the Board shall elect subsequent chairpersons. The chairperson shall serve as chair for a term of not more than two years.

Members of the Board shall serve without compensation, but may be reimbursed for reasonable and necessary expenses relating to their performance of duties, according to the rules and regulations of travel issued by the Office of Administration. Members will be required to submit an expense account form in order to obtain reimbursement for expenses incurred.

The Board shall meet as often as necessary, as determined by the chairperson of the Board. All meetings of the Board will be conducted in accordance with the Governmental Bodies and Records Act (Chapter 610, RSMo), including closed sessions. Notice will be posted and will be provided to the Joint Committee on Administrative Rules. Minutes of the meetings shall be provided to all members, the office of the Governor, and the Joint Committee on Administrative Rules.

Section 5. Purpose and Duties of the Board

The purpose of the Board shall be to independently review complaints brought by small businesses concerning state agency regulations that have a disproportionate impact on the conduct of small businesses in the State of Missouri. The Board also shall promote awareness of state agency rulemaking as it affects small business, identify issues in state agency rulemaking that disproportionately and adversely affect small businesses, identify issues for the Governor and the General Assembly to act upon, and monitor state agency compliance with requirements for filing small business impact statements and small business participation statements as required by this Executive Order.

The Board may:

- (1) Provide state agencies with input regarding rules that adversely affect small businesses;
- (2) Consider any request from small business owners for review of any rule adopted by a state agency;
- (3) Conduct hearings and solicit input from small businesses and state agencies regarding any request for review of rules adopted by a state agency; and

- (4) Provide an evaluation report to the Governor and the General Assembly including any recommendations and evaluations of state agencies regarding regulatory fairness for Missouri's small businesses. The report shall include comments from small businesses, state agency responses and a summary of any public testimony on rules brought before the Board for consideration.

In any review or hearing conducted by the Board because of a request or complaint from a small business, the Board shall base any recommendations resulting from its review or hearing on any of the following grounds:

- (1) The rule creates an undue barrier to the formation, operation and expansion of small businesses in a manner that significantly outweighs the rule's benefit to the public; or
- (2) New or significant economic information has created an undue impact on small businesses; or
- (3) Technology, economic conditions or other relevant factors justifying the purpose for the rule has changed or no longer exists; or
- (4) New or significant economic information has created an undue impact on small business; or
- (5) If the rule was adopted after the requirements of this Executive Order became effective, whether the actual effect on small businesses was not reflected in or significantly exceeded the small business impact statement submitted prior to the adoption of the rules;

Section 6. Miscellaneous

Any state agency receiving comments or recommendations from the Board shall promptly consider such comments or recommendations and should file a response with the Board within sixty (60) days of receiving the Board's comments or recommendations. If the state agency determines that no action shall be taken on the Board's comments or recommendations, the agency should explain its reasons for its determination. If the state agency determines that the Board's comments or recommendations merit adoption, amendment or repeal of a rule, the agency should indicate this in its response and thereafter initiate proceedings in accordance with the applicable requirements of Chapter 36, RSMo.

With this executive order, Executive Order 96-18, which created a requirement for state agencies to determine whether or not any proposed rule had an economic impact upon small businesses, is rescinded.

The provisions of this executive order shall become effective upon the date of its issuance set forth below. The provisions of this Executive Order shall continue in effect until superceded or changed by constitutional amendment, by law or by a subsequent Executive Order.



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 25th day of August, 2003.

Bob Holden
Governor

ATTEST:

Matt Blunt
Secretary of State