

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 7—Missouri Military Family Relief Fund**

EMERGENCY RULE

11 CSR 10-7.010 Missouri Military Family Relief Fund

PURPOSE: This rule prescribes guidelines as required by section 41.216, RSMo, to administer the Missouri Military Family Relief Fund, which provides an opportunity to receive donations from individuals or corporations and also on standard individual income tax forms, to allow taxpayers to contribute to the Missouri Military Family Relief Fund. It provides the adjutant general with the power to make grants from the fund to members and families of the Missouri National Guard members or to reserve component members and families who are Missouri residents and were called to active military service as a result of the September 11, 2001, terrorist attacks.

EMERGENCY STATEMENT: This emergency rule is necessary because of the compelling governmental interest to prescribe the guidelines to administer the Missouri Military Family Relief Fund. This fund was created in section 41.216, RSMo as passed in HB 437 (1st Regular Session, 93rd General Assembly, 2005) which provides financial assistance grants to members and families of the Missouri's National Guard and Missouri residents who are members of the reserve forces of the United States and have been called to active duty

as a result of the September 11, 2001, terrorist attacks. The program will be funded fully from donations received and will fund family assistance grants to families of eligible National Guard and reserve personnel on a quality of life and medical needs basis. Due to the large number of Missouri National Guard and reserve members serving on active duty and the difference in military pay versus civilian pay, many families are hard pressed to meet family living and medical expenses during the military active duty period thus making the earliest program start-up date critical. Implementation of an emergency rule will ensure that the Missouri Military Family Relief Fund is distributed in the most timely and efficient manner and that Missouri understands the unique needs of military families while their loved ones are providing patriotic service to our state and nation. 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 adjutant general believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 2, 2005, effective November 12, 2005, expires May 10, 2006.

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

(A) Adjutant general—as defined in Chapter 41, *Revised Statutes of Missouri*, section 41.110;

(B) Families of members – a husband, wife, child, mother, father, brother, sister, or other person who has been approved as a dependent and is enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) in accordance with applicable military regulations. A custodial parent or guardian of a member's dependent may apply for a grant on behalf of that dependent;

(C) Interested party—non-family member granted power of attorney by the service member;

(D) Active duty—military service performed as state active duty under 41.480 and/or 44.415, RSMo; military service performed under the provisions of Title 32, United States Code; or military service performed under the provisions of Title 10, *United States Code*;

(E) Reserve component—reserve forces of the United States: Air Force Reserve, Army Reserve, Coast Guard Reserve, Marine Corps Reserve, Naval Reserve;

(F) Duty as a result of September 11, 2001—Title 10 or Title 32 active duty service of a minimum of thirty (30) consecutive days, directly related to the President's Partial Mobilization Authority in response to the attacks (currently referred to as Operation Noble Eagle, Operation Iraqi Freedom and Operation Enduring Freedom); any future operations as determined by the president; or any future operations as determined by the governor of Missouri;

(G) Missouri Military Family Relief Fund (MMFRF)—as defined in Chapter 41, *Revised Statutes of Missouri*, section 41.218;

(H) Review panel—a Command Sergeants Major of the Missouri National Guard, an active or retired Command Sergeants Major of a reserve component or its equivalent and a representative of the Missouri Veterans' Commission;

(I) MMFRF coordinator—individual appointed by the adjutant general to serve as recorder for the Review Panel and to execute administrative functions relative to the Missouri Military Family Relief Fund; and

(J) Quality of Life and Medical Based Grants (QLMBG)—grants for generally accepted living expenses; housing, transportation, utilities, repairs, groceries, etc. This grant excludes luxury items such as cable TV, vacations, alcohol, etc.

(2) Determination of Eligibility for Quality of Life and Medical Based Grants (QLMBG). The grant applicant must show proof of the following:

(A) He or she is a member of the Missouri National Guard or a Missouri resident who is a member of another reserve component branch, applying on behalf of his or her family;

(B) Or is a family member of that service member, or has been given power of attorney by the service member. Proof of residency for military members will consist of information obtained from DEERS. Proof of a familial relationship will also consist of information obtained from DEERS;

(C) The Missouri National Guard or reserve component member was on active military duty for at least thirty (30) consecutive days as a result of the September 11, 2001 terrorist attacks. Proof of active duty will consist of a copy of the orders issued by an authorized headquarters ordering the member to such duty, and documentation showing that such duty was actually performed. Eligible active duty includes any active duty since September 11, 2001;

(D) The Missouri National Guard or reserve component member has been off Title 10 or Title 32 orders in support of the Global War on Terrorism for less than one hundred twenty (120) days if applying for a grant after release from active duty;

(E) A copy of a payroll record from the member's civilian employer that indicates member's monthly salary plus a copy of a military leave and earnings statement (LES) that indicates the member's monthly salary;

(F) Proof that the member or family member has incurred or is about to incur a specific monetary expense relating to clothing, food, housing, utilities, medical services, medical prescriptions, insurance or vehicle payments. Such proof shall include, but is not limited to a copy of a bill, invoice, estimate, cancellation notice, or any other similar record;

(G) A signed statement that the grant request is for the purpose identified in the application and that the grant funds will be used for the purposes requested;

(H) The Missouri National Guard or reserve component member holds a pay grade no higher than O-3, if a commissioned officer, or W-2, if a warrant officer. Individuals or families will be eligible for the grant based upon rank at the time of the mobilization. Proof of pay grades will consist of information obtained from DEERS;

(I) If a custodial parent or guardian is applying for a grant on behalf of a member's dependent, then the custodial parent or guardian must provide proof of guardianship of a member's dependent currently enrolled in DEERS;

(J) The adjutant general is authorized to waive the requirements in subsection (2)(H) upon a written request indicating the circumstances justifying such a waiver, and upon proof that there has in fact been some decrease from the member's civilian salary. Such circumstances include, but are not limited to, death, injury or incapacity of the member, long-term deployment of the member and unexpected expenses incurred by the member's family. The adjutant general may use discretion in granting or denying such requests; and

(K) Upon recommendation of the Review Panel the adjutant general is authorized to waive the one hundred twenty (120)-day limitation in subsection (D) of this section. The Adjutant General may use discretion in granting or denying such requests.

(3) The following members are ineligible to receive QLMBG:

(A) All commissioned and warrant officers with pay grades of O-4 and W-3, or higher;

(B) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service; or a change in Title 32 due to the September 11, 2001 terrorist attacks; or

(C) Members who, at any time prior to the disbursement of funds pursuant to a grant application under this section, receive a punitive discharge or an administrative discharge with service characterized as Under Other Than Honorable Conditions.

(4) QLMBG Levels and Limits.

(A) Payments to a Missouri National Guard or reserve component service member or their family shall be determined in accordance with MMFRF Standard Operating Procedures (SOP).

(B) If a grant payment is to be used for the purpose of payments for food, housing, utilities, it shall be noted on the application and this information shall be sent to the State Fiscal Resources Office when a payment request is granted. These payments shall be identified as responsive to health and welfare issues.

(C) All grants will be paid directly to the applicant. Payments will not be made directly to creditors.

(5) Application and Documentation. The rules governing the acceptance of applications are as follows:

(A) To receive consideration for a grant, applicants must request and submit an application provided by the MMFRF coordinator.

(B) All necessary documentation, as stated in section (2), must be included with the application, unless otherwise provided under DEERS, and the applicant shall authorize access to DEERS for purposes of verification.

(C) Incomplete applications will be returned to the applicant.

(D) The MMFRF coordinator, upon receipt of a complete original application, will verify required information under DEERS and will then process the information for payment. The application shall be processed in an expeditious manner.

(6) Payments.

(A) Payment will be made to the applicant who has met all eligibility requirements under section (2).

(B) The timeliness of payment will be determined by the amount of funds available at the time of application.

(C) If adequate funds are not available, the application will be held in a queue until funds are available.

(7) Denials.

(A) Grant applications from those not meeting eligibility requirements will be denied.

(B) A letter explaining the denial, as well as providing additional sources of available relief, will be sent to the applicant by the MMFRF coordinator within thirty (30) days after receipt.

(8) Appeals.

(A) Applicants may appeal decisions in writing within thirty (30) days of denial letter by stating the bases for the reconsideration. Send all appeals to the MMFRF coordinator.

(B) Upon the recommendation of the review panel the adjutant general is the final appeal authority.

(9) Reporting Requirements.

(A) As outlined in the MMFRF SOP.

AUTHORITY: sections 41.216 and 41.218, RSMo as passed in HB 437 (1st regular session, 93rd General Assembly 2005). Emergency rule filed Nov. 2, 2005, effective Nov. 12, 2005, expires May 10, 2006. A proposed rule covering this same material is published in this issue of the Missouri Register.

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

EMERGENCY AMENDMENT

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

PURPOSE: Under the Annual Adjusted Rate of Interest (section 32.065, RSMo), this amendment establishes the 2006 annual adjusted rate of interest to be implemented and applied on taxes remaining unpaid during calendar year 2006.

EMERGENCY STATEMENT: The director of revenue is mandated to establish not later than October 22 annual adjusted rate of interest based upon the adjusted prime rate charged by banks during September of that year as set by the Board of Governors of the Federal Reserve rounded to the nearest full percent. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the amendment informs the public of the established rate of interest to be paid on unpaid amounts of taxes for the 2006 calendar year. The director has followed procedures calculated to assure fairness to all interested persons and parties and has complied with protections extended by the Missouri and United States Constitutions. The director has limited the scope of the emergency amendment to the circumstances creating the emergency. Emergency amendment filed November 1, 2005, effective January 1, 2006, expires June 29, 2006.

(1) Pursuant to section 32.065, RSMo, the director of revenue upon official notice of the average predominant prime rate quoted by commercial banks to large businesses, as determined and reported by the Board of Governors of the Federal Reserve System in the Federal Reserve Statistical Release H.15(519) for the month of September of each year has set by administrative order the annual adjusted rate of interest to be paid on unpaid amounts of taxes during the succeeding calendar year as follows:

Calendar Year	Rate of Interest on Unpaid Amounts of Taxes
1995	12%
1996	9%
1997	8%
1998	9%
1999	8%
2000	8%
2001	10%
2002	6%
2003	5%
2004	4%
2005	5%
2006	4%

AUTHORITY: section 32.065, RSMo 2000. Emergency rule filed Oct. 13, 1982, effective Oct. 23, 1982, expired Feb. 19, 1983. Original rule filed Nov. 5, 1982, effective Feb. 11, 1983. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 1, 2005. Emergency amendment filed Nov. 1, 2005, effective Jan. 1, 2006, expires June 29, 2006.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2004.

EXECUTIVE ORDER 05-41

WHEREAS, many of Missouri's veterans have made extraordinary sacrifices protecting our freedom and democracy; and

WHEREAS, Missouri's veterans deserve our gratitude, respect and praise for their devotion to our country and our State; and

WHEREAS, the State of Missouri recognizes that in order to honor Missouri's veterans, the State together with its citizens must ensure that the men and women who served in the armed forces in the past, those who are serving today and those who will serve in the future receive all the support and assistance they may require.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, pursuant to the authority vested in me by the Constitution and laws of the State of Missouri, do hereby create and establish the Governor's Advisory Council for Veterans Affairs.

Membership of the Council shall consist of 12 members appointed by the Governor. The Governor shall designate one of the members to act as Chair and one member to act as Vice Chair. All members of the Council shall serve at the pleasure of the Governor. The Council shall meet when called by the Chair. A representative of the Missouri Veterans Commission and the Adjutant General of the Missouri National Guard shall serve as ex-officio members of the Council.

The Missouri Veterans Commission and the Office of Administration shall provide any staff assistance required by the Council. Members of the Council shall receive no compensation for their services but may be reimbursed for their actual and necessary expenses incurred in the performance of their duties, in accordance with the rules and regulations of the Office of Administration

The duties of the Council shall include but are not limited to:

1. Advising the Governor on ways to serve and assist veterans;
2. Estimating the needs of our aging World War II and Korean war veteran population, including medical and long-term care needs, recognizing the varying acuity levels of the particular population;
3. Examining the economic dislocation of the National Guard and Reserve service members, Missouri's citizen soldiers, as a result of the frequent call-ups both federally and within the State, to ensure state and federal support exists to cushion those dislocations, and to provide assistance with education, financial hardship, employer support and job placement upon entry back in to the local

- communities by assisting in the development of additional job opportunities and job training;
4. Developing strategies for improving the delivery of services to Missouri veterans;
 5. Serving as a liaison to and with the Missouri National Guard, Reserve components, Veteran Service Organizations, state, federal, and local agencies and the Missouri Veterans Commission to support the military, veterans and family members;
 6. Pursuing support for the newly created "Missouri Military Family Relief Fund";
 7. Increasing the services to and awareness of the number of women veterans in the State of Missouri by increasing their visibility on Boards and Commissions so that their unique needs may be identified and recognized; and
 8. Increasing awareness nationwide that Missouri is a "military friendly state" by virtue of its support economically and otherwise for its military bases and National Guard networks.



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 November, 2005.

Matt Blunt
Governor

ATTEST:

Robin Carnahan
Secretary of State

EXECUTIVE ORDER
05-42

WHEREAS, the President in Homeland Security Directive (HSPD)-5, directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which would provide a consistent nationwide approach for Federal, State, and local governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, the collective input and guidance from all Federal, State, and local homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS; and

WHEREAS, it is necessary and desirable that all Federal, State, and local emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most efficient and effective incident management it is critical that Federal, State, and local organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the State's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the State, including current emergency management training programs; and

WHEREAS, the National Commission on Terrorist Attacks (9-11 Commission) recommended the adoption of a standardized Incident Command System.

NOW, THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by the virtue of the authority vested in me by the Constitution and Laws of the State of Missouri, do hereby establish the National Incident Management System (NIMS) as the standard for emergency incident management in the State of Missouri.

All state executive departments are directed to immediately incorporate the NIMS into existing emergency operations plans, policies and procedures, as well as existing and future training programs and exercises. Furthermore, state executive departments shall ensure that all appropriate personnel meet the applicable NIMS training standards as defined by the Department of Homeland Security by October 1, 2006 and shall report accomplishment of such to the Director of the State Emergency Management Agency.



ATTEST:

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 14th day of November, 2005.

Matt Blunt
Governor

Robin Carnahan
Secretary of State

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

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

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

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

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

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

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

(A) Adjutant general—as defined in Chapter 41, *Revised Statutes of Missouri*, section 41.110;

(B) Families of members—a husband, wife, child, mother, father, brother, sister, or other person who has been approved as a dependent and is enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) in accordance with applicable military regulations. A custodial parent or guardian of a member's dependent may apply for a grant on behalf of that dependent;

(C) Interested party—non-family member granted power of attorney by the service member;

(D) Active duty—military service performed as state active duty under 41.480 and/or 44.415, RSMo; military service performed under the provisions of Title 32, *United States Code*; or military service performed under the provisions of Title 10, *United States Code*;

(E) Reserve component—reserve forces of the United States: Air Force Reserve, Army Reserve, Coast Guard Reserve, Marine Corps Reserve, Naval Reserve;

(F) Duty as a result of September 11, 2001—Title 10 or Title 32 active duty service of a minimum of thirty (30) consecutive days, directly related to the President's Partial Mobilization Authority in response to the attacks (currently referred to as Operation Noble Eagle, Operation Iraqi Freedom and Operation Enduring Freedom); any future operations as determined by the president; or any future operations as determined by the governor of Missouri;

(G) Missouri Military Family Relief Fund (MMFRF)—as defined in Chapter 41, *Revised Statutes of Missouri*, section 41.218;

(H) Review panel—a Command Sergeants Major of the Missouri National Guard, an active or retired Command Sergeants Major of a reserve component or its equivalent and a representative of the Missouri Veterans' Commission;

(I) MMFRF coordinator—individual appointed by the adjutant general to serve as recorder for the review panel and to execute administrative functions relative to the Missouri Military Family Relief Fund; and

(J) Quality of Life and Medical Based Grants (QLMBG)—grants for generally accepted living expenses; housing, transportation, utilities, repairs, groceries, etc. This grant excludes luxury items such as cable TV, vacations, alcohol, etc.

(2) Determination of Eligibility for Quality of Life and Medical Based Grants (QLMBG). The grant applicant must show proof of the following:

(A) He or she is a member of the Missouri National Guard or a Missouri resident who is a member of another reserve component branch, applying on behalf of his or her family;

(B) Or is a family member of that service member, or has been given power of attorney by the service member. Proof of residency for military members will consist of information obtained from DEERS. Proof of a familial relationship will also consist of information obtained from DEERS;

(C) The Missouri National Guard or reserve component member was on active military duty for at least thirty (30) consecutive days as a result of the September 11, 2001 terrorist attacks. Proof of active duty will consist of a copy of the orders issued by an authorized headquarters ordering the member to such duty, and documentation showing that such duty was actually performed. Eligible active duty includes any active duty since September 11, 2001;

(D) The Missouri National Guard or reserve component member has been off Title 10 or Title 32 orders in support of the Global War on Terrorism for less than one hundred twenty (120) days if applying for a grant after release from active duty;

(E) A copy of a payroll record from the member's civilian employer that indicates member's monthly salary plus a copy of a military leave and earnings statement (LES) that indicates the member's monthly salary;

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 10—Adjutant General Chapter 7—Missouri Military Family Relief Fund

PROPOSED RULE

11 CSR 10-7.010 Missouri Military Family Relief Fund

PURPOSE: This rule prescribes guidelines as required by section 41.216, RSMo, to administer the Missouri Military Family Relief Fund, which provides an opportunity to receive donations from individuals or corporations and also on standard individual income tax forms, to allow taxpayers to contribute to the Missouri Military Family Relief Fund. It provides the adjutant general with the power to make grants from the fund to members and families of the Missouri National Guard members or to reserve component members and families who are Missouri residents and were called to active military service as a result of the September 11, 2001, terrorist attacks.

(F) Proof that the member or family member has incurred or is about to incur a specific monetary expense relating to clothing, food, housing, utilities, medical services, medical prescriptions, insurance or vehicle payments. Such proof shall include, but is not limited to, a copy of a bill, invoice, estimate, cancellation notice, or any other similar record;

(G) A signed statement that the grant request is for the purpose identified in the application and that the grant funds will be used for the purposes requested;

(H) The Missouri National Guard or reserve component member holds a pay grade no higher than O-3, if a commissioned officer, or W-2, if a warrant officer. Individuals or families will be eligible for the grant based upon rank at the time of the mobilization. Proof of pay grades will consist of information obtained from DEERS;

(I) If a custodial parent or guardian is applying for a grant on behalf of a member's dependent, then the custodial parent or guardian must provide proof of guardianship of a member's dependent currently enrolled in DEERS;

(J) The adjutant general is authorized to waive the requirements in subsection (2)(H) upon a written request indicating the circumstances justifying such a waiver, and upon proof that there has in fact been some decrease from the member's civilian salary. Such circumstances include, but are not limited to, death, injury or incapacity of the member, long-term deployment of the member and unexpected expenses incurred by the member's family. The adjutant general may use discretion in granting or denying such requests; and

(K) Upon recommendation of the review panel the adjutant general is authorized to waive the one hundred twenty (120)-day limitation in subsection (D) of this section. The adjutant general may use discretion in granting or denying such requests.

(3) The following members are ineligible to receive QLMBG:

(A) All commissioned and warrant officers with pay grades of O-4 and W-3, or higher;

(B) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service; or a change in Title 32 due to the September 11, 2001 terrorist attacks; or

(C) Members who, at any time prior to the disbursement of funds pursuant to a grant application under this section, receive a punitive discharge or an administrative discharge with service characterized as Under Other Than Honorable Conditions.

(4) QLMBG Levels and Limits.

(A) Payments to a Missouri National Guard or reserve component service member or their family shall be determined in accordance with MMFRF Standard Operating Procedures (SOP).

(B) If a grant payment is to be used for the purpose of payments for food, housing, utilities, it shall be noted on the application and this information shall be sent to the state fiscal resources office when a payment request is granted. These payments shall be identified as responsive to health and welfare issues.

(C) All grants will be paid directly to the applicant. Payments will not be made directly to creditors.

(5) Application and Documentation. The rules governing the acceptance of applications are as follows:

(A) To receive consideration for a grant, applicants must request and submit an application provided by the MMFRF coordinator;

(B) All necessary documentation, as stated in section (2), must be included with the application, unless otherwise provided under DEERS, and the applicant shall authorize access to DEERS for purposes of verification;

(C) Incomplete applications will be returned to the applicant;

(D) The MMFRF coordinator, upon receipt of a complete original application, will verify required information under DEERS and will then process the information for payment. The application shall be processed in an expeditious manner.

(6) Payments.

(A) Payment will be made to the applicant who has met all eligibility requirements under section (2).

(B) The timeliness of payment will be determined by the amount of funds available at the time of application.

(C) If adequate funds are not available, the application will be held in a queue until funds are available.

(7) Denials.

(A) Grant applications from those not meeting eligibility requirements will be denied.

(B) A letter explaining the denial, as well as providing additional sources of available relief, will be sent to the applicant by the MMFRF coordinator within thirty (30) days after receipt.

(8) Appeals.

(A) Applicants may appeal decisions in writing within thirty (30) days of denial letter by stating the bases for the reconsideration. Send all appeals to the MMFRF coordinator.

(B) Upon the recommendation of the review panel the adjutant general is the final appeal authority.

(9) Reporting Requirements.

(A) As outlined in the MMFRF SOP.

AUTHORITY: sections 41.216 and 41.218, RSMo as passed in HB 437 (1st Regular Session, 93rd General Assembly 2005). Emergency rule filed Nov. 2, 2005, effective Nov. 12, 2005, expires May 10, 2006. Original rule filed Nov. 2, 2005.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions fifty thousand dollars (\$50,000) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Public Safety, Office of the Adjutant General, 2302 Militia Drive, Atten: JFMO-SX, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE
PUBLIC COST**I. RULE NUMBER**

Rule Number and Name:	11 CSR 10-7.010 Missouri Military Family Relief Fund
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
DPS/Office of the Adjutant General	\$50,000
Department of Revenue (DOR)	
DPS/ Missouri Veterans Commission	\$50,000 Total

III. WORKSHEET

All costs reflected in fiscal note for House Bill 437 (93rd General Assembly) are estimates, actual program cost will vary based on the amount of donations received. In accordance with provisions of the legislation, the OTAG will administer the fund by making deposits of donations received to the State Treasury and issue state funding grants to eligible military Guard and Reserve members and their families who are in financial need. Grants will be awarded based on provisions of applicable Code of State Regulations and the Office of the Adjutant General SOP for the program.

IV. ASSUMPTIONS

The amount of estimated expenditures will be dependent on the amount of donations and the number of eligible family assistance requests received.

Since all donations will be deposited in the State Treasury, the OTAG assumes the deposits will be considered public. General Revenue is not anticipated to be used to support the program. In addition to the grant cost, expenditures supporting program administration and fund raising will be supported with donations received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

PROPOSED RESCISSION

12 CSR 10-23.390 License Plates for Disabled Veterans. This rule established uniform procedures to be followed in the registration of vehicles for special motor vehicle license plates for disabled veterans.

PURPOSE: This rule is being rescinded as it has been determined that legislation clearly authorizes the procedures and requirements for issuance of special motor vehicle license plates for disabled veterans.

AUTHORITY: sections 301.071–301.075, RSMo 1986. Original rule filed June 16, 1988, effective Nov. 24, 1988. Rescinded: Filed Nov. 8, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED RESCISSION

12 CSR 10-24.120 Assumed or Common Use Name. This rule established procedures to issue a drivers license to a person under an assumed or common use name.

PURPOSE: This rule is being rescinded due to section 302.171, RSMo, which eliminates language that allowed the assumed or common use name.

AUTHORITY: section 302.171, RSMo 2000. Original rule filed Jan. 29, 1987, effective May 11, 1987. Amended: Filed Feb. 28, 1992, effective Aug. 6, 1992. Amended: Filed Sept. 11, 1992, effective April 8, 1993. Amended: Filed Jan. 23, 1996, effective July 30, 1996. Amended: Filed Nov. 15, 2002, effective May 30, 2003. Rescinded: Filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division,

Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 101—Sales/Use Tax—Nature of Tax**

PROPOSED RULE

12 CSR 10-101.700 Bankruptcy and Other Court Appointments

PURPOSE: This rule explains the treatment under federal law of sales and use tax in a bankruptcy or other court appointments, and the liability of trustees, assignees and receivers for sales and use tax.

(1) In general, any trustee, assignee or receiver must notify the department upon being appointed to such position by the court. The trustee, assignee or receiver is responsible for sales and use tax on behalf of the debtor.

(2) Basic Application.

(A) All outstanding sales and use tax, interest and penalties due the state from a debtor must be paid before any distribution to general unsecured creditors.

(B) When a court appoints any person, whether trustee, assignee or receiver, to take over any business and operate or liquidate it, the person appointed must collect and remit sales tax for the debtor during such appointment. The person appointed must use the sales tax license of the debtor during such appointment.

(C) The person appointed is liable for any tax, interest or penalties not paid as required by subsections (2)(A) and (B).

AUTHORITY: sections 144.270 and 144.705, RSMo 2000. Original rule filed Nov. 7, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED RULE

12 CSR 10-103.620 Florists

PURPOSE: This rule explains when sales by Missouri florists are subject to Missouri sales tax.

(1) In general, sales of tangible personal property by florists are subject to Missouri sales tax on orders taken in Missouri even when the

tangible personal property is delivered outside the state. Sales of tangible personal property by florists are not subject to Missouri sales tax on original orders taken outside Missouri even when a Missouri florist delivers the tangible personal property in the state.

(2) Basic Application.

(A) A Missouri florist who takes the original order and subsequently forwards that order either to another in-state florist or an out-of-state florist for delivery is subject to sales tax on the transaction. The sale is subject to the local sales tax in effect at the location where the florist takes the original order.

(B) When an out-of-state florist takes the original order and subsequently forwards the order to a Missouri florist, the Missouri florist is not subject to Missouri sales tax.

AUTHORITY: sections 144.020.1, RSMo Supp. 2004 and 144.270, RSMo 2000. Original rule filed Nov. 9, 2005.

PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Revenue approximately nine thousand nine hundred ninety-nine dollars (\$9,999) with that cost recurring annually over the life of the rule.

PRIVATE COST: This proposed rule is estimated to cost private entities approximately one hundred twelve thousand nine hundred eighty dollars (\$12,980) with that cost recurring annually over the life of the rule.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-103.620 Florists
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Revenue	\$9,998.73

III. WORKSHEET

It costs the Department of Revenue \$2.25 to process a typical sales tax return. Based on estimated returns filed by florists in a given year, the costs to process are $3,766 \times \$2.25 = \$8,473.50$. The Department of Revenue's costs to print and mail returns to florists are \$.405 per return. The calculation for these costs are $3,766 \times \$0.405 = \$1,525.23$.

IV. ASSUMPTIONS

The costs assume no postal discounts for mailing are realized. It also assumes an annual salary for a Tax Processing Technician of \$23,006.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-103.620 Florists
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1,255	Vendors- \$30 in cost to prepare and file a sales tax return.	\$112,980

III. WORKSHEET

The Department of Revenue receives approximately 3,766 returns per year from approximately 1,255 florists. The estimated cost to prepare and file a return per business is \$30 per filed return. The cost to all vendors to comply is $3,766 \times \$30 = \$112,980$.

IV. ASSUMPTIONS

The rule does not change existing practice. The department cannot determine the actual costs of preparing and filing a return. The department assumes for purposes of this fiscal note that it costs \$30 per return. This cost would be incurred as a result of section 144.020.1, RSMo, regardless of the contents of this rule. The department assumes every business makes at least one sale per reporting period.

**Title 12—DEPARTMENT OF REVENUE
Division 40—State Lottery
Chapter 80—General Rules—Instant Game**

PROPOSED AMENDMENT

12 CSR 40-80.080 Claim Period. The commission proposes to amend section (1) of this rule.

PURPOSE: The purpose of this amendment is to redefine the claim period for Lottery games.

(1) All winning tickets for any instant or pull-tab game must be claimed within one hundred eighty (180) days of the announced end of the game. All winning tickets for any on-line game must be claimed within one hundred eighty (180) days of the [draw date for that game.] **last winning draw date on that ticket.**

AUTHORITY: section 313.220, RSMo [2000] Supp. 2004. Original rule filed Jan. 10, 1986, effective Jan. 20, 1986. Amended: Filed March 17, 1987, effective July 3, 1987. Amended: Filed Aug. 28, 2002, effective March 30, 2003. Amended: Filed Nov. 15, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Lottery, Terry Skinner, Director of Budget and Planning, PO Box 1603, Jefferson City, MO 65102-1603. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation,
Rights and Responsibilities**

PROPOSED AMENDMENT

13 CSR 70-4.080 Children's Health Insurance Program. The director is amending sections (6) and (7).

PURPOSE: This amendment clarifies that the waiting period after enrollment for uninsured children to receive coverage under the Children's Health Insurance Program is limited to children in families with an income of more than two hundred twenty-five percent (225%) of the federal poverty level. This amendment also clarifies that the requirement that a child shall not be eligible for coverage under the Children's Health Insurance Program for failure of a parent or guardian to pay the premium pursuant to section 208.646, RSMo is limited to children in families with an income of more than two hundred twenty-five percent (225%) of the federal poverty level.

(6) An uninsured child/children with gross income above [one hundred fifty percent (150%)] **two hundred twenty-five percent (225%)** and below three hundred percent (300%) of the federal poverty level shall be eligible for services(s) thirty (30) calendar days after the application is received if the required premium has been received. **An uninsured child/children with gross income above one hundred fifty percent (150%) and below two hundred twen-**

ty-six percent (226%) of the federal poverty level shall be eligible for services once the required premium has been received.

(D) No service(s) will be covered prior to the effective date which is thirty (30) calendar days after the date the application is received for **uninsured children in families with an income of more than two hundred twenty-five percent (225%) of the federal poverty level.**

(7) If a parent or guardian [discontinues payment of premiums,] **with an income of more than two hundred twenty-five percent (225%) of the federal poverty level fails to meet the premium payment requirements** a past due notice shall be sent requesting remittance within twenty (20) calendar days from date of the **past due** letter. Failure to make payment **within this time period** shall result in the child's ineligibility for coverage for [the following] six (6) months.

AUTHORITY: sections 208.633, 208.636, 208.640, 208.643, 208.646, 208.650, 208.655, 208.657 and 208.201, RSMo 2000 and 208.631 and 208.647, RSMo Supp. 2004. Original rule filed July 15, 1998, effective Feb. 28, 1999. Emergency amendment filed Aug. 4, 2005, effective Sept. 1, 2005, expires Feb. 27, 2006. Amended: Filed April 29, 2005, effective Nov. 30, 2005. Amended: Filed Nov. 15, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

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

PROPOSED AMENDMENT

15 CSR 30-54.260 Foreign Issuer Exemption. The commissioner is amending section (3).

PURPOSE: This rule exempts the securities of foreign issuers that satisfy certain standards. This amendment expands the rule to include the TSX Venture Exchange.

(3) For purposes of section 409.2-202(23), RSMo, the [Montreal Stock Exchange is a designated securities exchange.] **following are designated securities exchanges:**

- (A) **The Montreal Stock Exchange; and**
- (B) **The TSX Venture Exchange.**

AUTHORITY: sections 409.2-202(23), 409.2-203 and 409.6-605, RSMo Supp. [2003] 2004. Original rule filed March 27, 1989, effective June 12, 1989. Amended: Filed June 29, 1990, effective Dec. 31, 1990. Emergency amendment filed Aug. 19, 2003, effective Sept. 12, 2003, expired March 9, 2004. Amended: Filed Aug. 27, 2003, effective Feb. 29, 2004. Amended: Filed Nov. 8, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, David B. Cosgrove, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 1—Organization and Operation of Board of Directors

PROPOSED AMENDMENT

16 CSR 50-1.010 General Organization. The board is amending sections (2) and (5).

PURPOSE: This amendment updates the contact information.

(2) Meetings of the Board. The board of directors of the County Employees' Retirement Fund, hereafter "board," shall hold regular quarterly meetings at a location to be designated by the board and special meetings at times as may be necessary on call of the chairman or by three (3) members acting jointly and notifying the chair, in writing, of their desire to meet, upon due and reasonable notice. In the event three (3) members act to request a meeting, their written notification to the chair may be served by either United States mail or facsimile transmission. The chairman shall publicize through appropriate channels the time and place of the meetings of the board. All meetings of the board of directors shall comply with Chapter 610, RSMo. Information concerning meetings or rules may be obtained by contacting the County Employees' Retirement Fund Administrative Office, [P.O. Box 2271, Jefferson City, MO 65102] 2121 Schotthill Woods Drive, Jefferson City, MO 65101. Information concerning operations of the system may be obtained by writing or calling the CERF plan administrator. The contact person for the plan administrator is Sarah J. Maxwell, Executive Director. Ms. Maxwell may be reached by mail at [P.O. Box 2271, Jefferson City, MO 65102] 2121 Schotthill Woods Drive, Jefferson City, MO 65101, or by telephone at (573) 632-9203.

(5) The custodian of records for the County Employees' Retirement Fund is its plan administrator. Anyone wishing to obtain information or make submissions or requests may do so by contacting the County Employees' Retirement Fund, Plan Administrator, [P.O. Box 2271, Jefferson City, MO 65102] 2121 Schotthill Woods Drive, Jefferson City, MO 65101, or by calling (573) 632-9203.

AUTHORITY: section 50.1032, RSMo [Supp. 1999] 2000. Original rule filed Oct. 11, 1995, effective May 30, 1996. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.035 Payment of Benefits. The board is amending section (5).

PURPOSE: This amendment amends required minimum distributions under the plan.

(5) 401(a)(9) Requirements. [All distributions required under the County Employees' Retirement Fund shall be determined and made in accordance with the Prop. Reg. under Code section 401(a)(9) including the minimum distribution incidental benefit requirement of Prop. Reg. section 1.401(a)(9)-2. The entire interest of a participant must be distributed or begin to be distributed no later than the participant's required beginning date as defined in section 50.1000(12), RSMo. Except as amended by the foregoing, the terms and provisions of the County Employees' Retirement Fund as enacted by the General Assembly of the State of Missouri effective as of August 28, 1994 and amended effective as of January 1, 2000 shall remain in full force and effect.] Notwithstanding anything to the contrary contained in the plan, the entire interest of a participant will be distributed in accordance with U.S. Code section 401(a)(9) and the regulations thereunder beginning no later than the participant's required beginning date. The provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

(A) If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

1. If the participant's surviving spouse is the participant's sole designated beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age seventy and one-half (70 1/2), if later;

2. If the participant's surviving spouse is not the participant's sole designated beneficiary, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died;

3. If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death;

4. If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this subsection (5)(A), other than paragraph (5)(A)1., will apply as if the surviving spouse were the participant.

For purposes of this subsection and subsection (E), unless paragraph (5)(A)4. applies, distributions are considered to begin on the participant's required beginning date. If paragraph (5)(A)4. applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under paragraph (5)(A)1. If annuity payments irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (5)(A)1., the date distributions are considered to begin is the date distributions actually commence.

(B) Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subsections (5)(C), (D) and (E). If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in Code Section 414(k) will be distributed in a manner satisfying the requirements of Code Section 401(a)(9) and the Treasury regulations that apply to individual accounts.

(C) If the participant's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:

1. The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;

2. The distribution period will be over a life (or lives) or over a period certain not longer than the period described in subsections (5)(D) and (E);

3. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

4. Payments will either be nonincreasing or increase only i) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics; ii) to the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subsection (5)(D) dies or is no longer the participant's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p); iii) to provide cash refunds of employee contributions upon the participant's death; or iv) to pay increased benefits that result from a plan amendment; and

5. The amount that must be distributed on or before the participant's required beginning date (or, if the participant dies before distributions begin, the date distributions are required to begin under subsection (5)(A)) is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's required beginning date. Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(D) If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspouse beneficiary, annuity payments to be made

on or after the participant's required beginning date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain. Unless the participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no live annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age seventy (70), the applicable distribution period for the participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of seventy (70) over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this section, or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

(E) If the participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the participant's entire interest will be distributed, beginning no later than the time described in subsection (5)(A) over the life of the designated beneficiary or over a period certain not exceeding:

1. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or

2. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death. If the participant dies before the date distribution of his or her interest begins, the participant's surviving spouse is the participant's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection will apply as if the surviving spouse were the participant, except that the time by which distributions must begin will be determined without regard to subsection (5)(A).

(F) The following definitions shall apply for purposes of this section:

1. Designated beneficiary shall mean the individual who is designated as the beneficiary under the terms of the plan and is the designated beneficiary under Code Section 401(a)(9) and section 1.401(a)(9)-1, Q&A-4 of the Treasury regulations.

2. A distribution calendar year is a calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to subsection (5)(A).

3. Life expectancy means an individual's life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

AUTHORITY: section 50.1032, RSMo 2000. Original rule filed July 29, 1997, effective Jan. 30, 1998. Rescinded and readopted: Filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed April 23, 2003, effective Oct. 30, 2003. Amended: Filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.040 Separation from Service Before Retirement. The board is amending section (1).

PURPOSE: This amendment amends the refund of contributions under the plan.

(1) Upon separation from service, any participant with less than eight (8) vested years of service shall forfeit all rights under the plan, including the participant's creditable service as of the date of the participant's separation from service. This forfeiture shall be applied to reduce the board's obligation to contribute to the plan. Such a participant will receive a refund of any of his or her contributions upon the receipt by the board or its designee of a termination notice; **provided, however, that if the amount of a participant's accumulated contributions is in excess of one thousand dollars (\$1,000), then any such refund of contributions may not be made prior to the earliest of the participant's death or normal retirement age (age sixty-two (62)) without the participant's written application to the board consenting to his or her accumulated contributions being distributed from the plan.** Such refund shall be made to the participant in a single sum as soon as administratively feasible following receipt of the termination notice **and, if applicable, the participant's written application requesting distribution,** by the board (or its designee). **In the event that a participant whose accumulated contributions exceed one thousand dollars (\$1,000) does not consent to the distribution of his or her accumulated contributions when first eligible to do so, or at any subsequent time prior to attaining his or her normal retirement age (age sixty-two (62)), his or her contributions shall be distributed to him or her as soon as administratively feasible following the first**

day of the month after attaining his or her normal retirement age (age sixty-two (62)); or, if such participant is deceased, such contributions shall be distributed to his or her surviving spouse or, if none, then in equal shares to the participant's surviving children, or, if there are no surviving children, then to his or her estate, as soon as administratively feasible following the first day of the month after the receipt by the board or its designee of a notice of death from such participant's employer, or such other form of proof acceptable to the board. For purposes of this section, it shall not be administratively feasible for the board or its designee to disburse a refund until the board or its designee also receives proper verification and *[reconciled]* **reconciles salaries, hours and contribution information obtained** from the employer.

AUTHORITY: section 50.1032, RSMo 2000. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded and readopted: Filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed Dec. 10, 2002, effective June 30, 2003. Amended: Filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.120 Benefits Upon Participant's Death. The board is amending section (2) and adding a new section (5).

PURPOSE: This amendment clarifies the spousal death benefit under the plan and amends the refund of contributions with respect to a vested participant after death under the plan.

(2) Spousal Death Benefit. If a participant dies before his or her annuity starting date but after completing eight (8) or more years of creditable service, the surviving spouse shall be entitled to survivorship benefits under the fifty percent (50%) annuity option as set forth in subsection 16 CSR 50-2.035(1)(C). If the participant was age sixty-two (62) or older at death, the surviving spouse's benefit shall begin to accrue on the first day of the month following the participant's death. If the participant was under age sixty-two (62) at death, the surviving spouse's benefits shall begin to accrue on the first day of the month following the date the participant would have attained age sixty-two (62) had the participant lived. In the event that a delay in the submission or processing of paperwork or some other delay results in the first payment of survivorship benefits commencing after the month in which the survivorship benefits began to accrue, such survivorship benefits shall be retroactive to the date on which the survivorship benefits began to accrue. Alternatively, the surviving spouse may elect to receive the reduced actuarially equivalent benefit payable on the first day of any month following the date of the participant's death and prior to the date the participant would have attained age sixty-two (62). **Notwithstanding anything herein to**

the contrary, in the event that a participant dies after completing an application for benefits in accordance with 16 CSR 50-2.035 but before his or her annuity starting date, and the surviving spouse is the survivor annuitant under the form of benefit elected by the participant immediately before his or her death, the surviving spouse shall be entitled to the greater, but not both, of:

(A) The survivorship benefits under the fifty percent (50%) annuity option as set forth in subsection 16 CSR 50-2.035(1)(C); or

(B) Such benefit as would have been payable to the surviving spouse under the form of payment elected by the participant immediately before his or her death in accordance with 16 CSR 50-2.035. In no event shall an individual other than the surviving spouse be entitled to survivorship benefits under the form of benefit that may have been elected by the participant before his or her death in the event that the participant dies before his or her annuity starting date.

(5) The designated beneficiary of a participant who dies without a surviving spouse before his or her annuity starting date but after having earned at least eight (8) vested years of service, or, if the participant fails to designate a beneficiary, then such participant's estate, shall be entitled to a refund of such participant's contributions after the receipt by the board or its designee of a notice of death from such participant's employer, or such other form of proof acceptable to the board. Such refund shall be made to the beneficiary in a single sum as soon as administratively feasible following receipt of the notice of death by the board or its designee. For purposes of this section, it shall not be administratively feasible for the board or its designee to disburse a refund until the board or its designee also receives proper verification and reconciled contribution information from the employer.

AUTHORITY: section 50.1032, RSMo [Supp. 1999] 2000. Original rule filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.130 Direct Rollover Option. The board is amending subsections (4)(A) and (B).

PURPOSE: This amendment clarifies the direct rollover option under the plan.

(4) For purposes of this regulation, the following terms have the meanings set forth below:

(A) An "eligible rollover distribution is any distribution or withdrawal payable under the terms of this plan to a participant, which is

described in Code section 402(c)(4). In general, this term includes any single-sum distribution, and any distribution which is one in a series of substantially equal periodic payments made over a period of less than ten (10) years, and is less than the distributee's life expectancy. However, an eligible rollover distribution does not include the portion of any distribution that constitutes a minimum required distribution under Code section 401(a)(9). Such term also does not include a distribution to the participant's beneficiary, unless the beneficiary is the participant's spouse. **A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of the distribution which is includible in gross income and the portion of such distribution which is not so includible.**

(B) "Eligible retirement plan" means:

1. An individual retirement account described in Code section 408(a);
2. An individual retirement annuity described in Code section 408(b);
3. An annuity plan described in Code section 403(a); *and*
4. An annuity contract described in Code section 403(b);
5. An eligible plan under Code section 457(b) which is maintained by an eligible employer described in Code section 457(e)(1)(A); and

[4.]6. A [retirement plan] qualified [under] trust described in Code section 401(a), but only if the terms of the plan permit the acceptance of rollover distributions.

[However, in the case of an eligible rollover distribution to a beneficiary who is a surviving spouse, an "eligible retirement plan" is an individual retirement account or an individual retirement annuity.] The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse.

AUTHORITY: section 50.1032, RSMo 2000. Original rule filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed July 6, 2001, effective Jan. 30, 2002. Amended: Filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.160 Administration of Fund. The board is amending section (3).

PURPOSE: This amendment amends the plan expenses under the plan.

(3) Plan Expenses. All expenses of plan administration, including (by way of illustration and not limitation) those incurred by the board and the fees of the trustee shall be paid from the trust fund. **Notwithstanding the foregoing, expenses incurred in connection with a distribution of benefits (including without limitation, a refund of contributions) may be allocated to and charged against the participant's interest in the plan.**

AUTHORITY: section 50.1032, RSMo [Supp. 1999] 2000. Original rule filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 10—County Employees' Defined Contribution Plan

PROPOSED AMENDMENT

16 CSR 50-10.030 Contributions. The board is amending section (3).

PURPOSE: This amendment amends the rules relating to matching contributions under the defined contribution plan.

(3) A Participant is a "Qualified Participant" for a Plan Year, if he or she is employed by an Employer and:

(A) *[Is employed on the last day of the Plan Year and has]* **Has earned one thousand (1,000) Hours of Service** during the Plan Year;

(B) Is on a leave of absence taken under the Family and Medical Leave Act of 1993 on the last day of the Plan Year or, as of the last day of the Plan Year, is on an absence for sickness or injury of less than **twelve (12) months**, that is counted as Creditable Service under 16 CSR 50-5.030;

(D) Retires during the Plan Year. "Retirement," for this purpose, means termination of employment after attainment of age **sixty-two (62)** after having become fully vested in accordance with rule 16 CSR 50-10.070.

AUTHORITY: sections 50.1220 and 50.1260, RSMo 2000 and 50.1230, [RSMo Supp. 2001,] and 50.1250, RSMo Supp. 2004. Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed April 25, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 10, 2002, effective April 30, 2003. Amended: Filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 10—County Employees' Defined Contribution Plan

PROPOSED AMENDMENT

16 CSR 50-10.050 Distribution of Accounts. The board is amending subsection (3)(D).

PURPOSE: This amendment amends the rules relating to matching contributions under the defined contribution plan.

(3) Commencement of Distributions and Payment Options.

(D) In the event a Qualified Participant's Account is distributed upon such Participant's **Separation from Service**, death or retirement and a Board contribution or Employer matching contribution is later allocated to such Qualified Participant's Account for any Plan Year, a subsequent distribution of such Account shall be made as soon as administratively feasible after such matching contribution allocation has been made **if such Participant is fully vested.**

AUTHORITY: sections 50.1250, RSMo Supp. 2004 and 50.1260, RSMo 2000. Original rule filed May 9, 2000, effective Jan. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 20—County Employees' Deferred Compensation Plan

PROPOSED RULE

16 CSR 50-20.120 Additional Provisions

PURPOSE: This rule is intended as good faith compliance with the provisions of section 457(b) of the Code and is to be construed in accordance with such provisions and guidance issued thereunder.

(1) The following words and terms, when used in this section, have the meaning set forth below:

(A) Administrator—The Board of Directors of the County Employees' Retirement Fund;

(B) Account Balance—The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's

Annual Deferrals, the earnings or loss of the Trust Fund (net of Trust Fund expenses) allocable to the Participant, any transfers for the Participant's benefit and any distribution made to the Participant or the Participant's Beneficiary. The Account Balance includes any account established under section (5) for rollover contributions and plan-to-plan transfers made for a Participant;

(C) Annual Deferral—The amount of Compensation deferred in any year;

(D) Beneficiary—The designated person who is entitled to receive benefits under the Plan after the death of a Participant;

(E) Code—The *Internal Revenue Code* of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time-to-time be amended or renumbered;

(F) Compensation—All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election to defer compensation under section (3));

(G) Employee—Shall have the meaning set forth in rule 16 CSR 50-20.020(1)(H);

(H) Employer—Shall have the meaning set forth in rule 16 CSR 50-20.020(1)(I);

(I) Includible Compensation—An Employee's actual wages in box 1 of Form W-2 for a year for services to the Employer, but subject to a maximum of two hundred thousand dollars (\$200,000) (or such higher maximum as may apply under section 401(a)(17) of the Code) and increased (up to the dollar maximum) by any compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election to defer Compensation under section (3));

(J) Normal Retirement Age—Age sixty-two (62);

(K) Participant—An individual who is currently deferring Compensation, or who has previously deferred Compensation under the Plan by salary reduction and who has not received a distribution of his or her entire benefit under the Plan. Only individuals who perform services for the Employer as an Employee may defer Compensation under the Plan;

(L) Plan—Shall have the meaning set forth in rule 16 CSR 50-20.020(1)(L);

(M) Severance from Employment—The term Severance from Employment means the date that the Employee dies, retires, or otherwise has a severance from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code);

(N) Trust Agreement—The written agreement (or declaration) made by and between the Board and the Trustee under which the Trust Fund is maintained;

(O) Trust Fund—The trust fund created under and subject to the Trust Agreement;

(P) Trustee—The Trustee duly appointed and currently serving under the Trust Agreement; and

(Q) Valuation Date—Each business day.

(2) Participation and contributions shall be in accordance with the following:

(A) Election Required for Participation. An Employee may elect to become a Participant by executing an election to defer a portion of his or her Compensation (and have that amount contributed as an Annual Deferral on his or her behalf) and filing it in accordance with such other applicable Plan terms. This participation election shall be made on the deferral agreement provided by the Administrator under which the Employee agrees to be bound by all the terms and conditions of the Plan. The participation election shall also include designation of investment funds and a designation of Beneficiary. Any such election shall remain in effect until a new election is filed;

(B) Commencement of Participation. An Employee shall become

a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to subsection (2)(A). Such election shall become effective no earlier than the calendar month following the month in which the election is made. A new Employee may defer compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the Employer;

(C) Information Provided by the Participant. Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the plan, including, without limitation, whether the Employee is a participant in any other eligible plan under Code section 457(b);

(D) Contributions Made Promptly. Annual Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is not longer than is reasonable for the proper administration of the Participant's Account Balance. For this purpose, Annual Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration if the contribution is made to the Trust Fund within fifteen (15) business days following the end of the month in which the amount would otherwise have been paid to the Participant;

(E) Amendment of Annual Deferrals Election. Subject to other provisions of the Plan, a Participant may at any time revise his or her participation election, including a change of the amount of his or her Annual Deferrals, his or her investment direction and his or her designated Beneficiary. A change in the amount of the Annual Deferrals shall take effect as soon as administratively practicable but not earlier than the first day of the first pay period beginning in:

1. Except as otherwise determined pursuant to paragraph (2)(E)2., the next calendar year quarter following the receipt of the properly completed Deferral Agreement by the Employer; or

2. If so determined by the county clerk of the Employer, the calendar month following receipt of the properly completed Deferral Agreement by the Employer. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees. A change in the Beneficiary designation shall take effect when the election is accepted by the Administrator;

(F) Leave of Absence. Unless an election is otherwise revised, if a Participant is absent from work by leave of absence, Annual Deferrals under the Plan shall continue to the extent that Compensation continues; and

(G) Disability. A disabled Participant may elect Annual Deferrals during any portion of the period of his or her disability to the extent that he or she has actual Compensation (not imputed Compensation and not disability benefits) from which to make contributions to the Plan and has not had a Severance from Employment.

(3) Limitations on amounts deferred shall be in accordance with the following:

(A) Basic Annual Limitation. The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of i) the Applicable Dollar Amount or ii) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount established under section 457(e)(15) of the Code as set forth below:

For the following years:	The Applicable Dollar Amount is:
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006 or thereafter	\$15,000

Adjusted for cost-of-living after 2006 to the extent provided under section 415(d) of the Code.

(B) Age Fifty (50) Catch-up Annual Deferral Contributions. A Participant who will attain age fifty (50) or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age fifty (50) catch-up Annual Deferrals for the year. The maximum dollar amount of the age fifty (50) catch-up Annual Deferrals for a year is as follows:

For the following years:	The maximum age 50 catch-up dollar amount is:
2002	\$1,000
2003	\$2,000
2004	\$3,000
2005	\$4,000
2006 or thereafter	\$5,000

Adjusted for cost-of-living after 2006 to the extent provided under the Code.

(C) Special Section 457 Catch-up Limitation. If the applicable year is one of a Participant's last three (3) calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this subsection (3)(C) exceeds the amount computed under subsections (3)(A) and (3)(B), then the Annual Deferral limit under this section (3) shall be the lesser of:

1. An amount equal to two (2) times the subsection (3)(A) Applicable Dollar Amount for such year; or
2. The sum of:

A. An amount equal to (A) the aggregate subsection (3)(A) limit for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus (B) the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus—

B. An amount equal to (A) the aggregate limit referred to in section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to subsections (3)(B) and (3)(C)), minus (B) the aggregate contributions to Pre-2002 Coordination Plans for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for the year.

(D) Special Rules. For purposes of this section (3), the following additional rules shall apply:

1. Participant covered by more than one (1) eligible plan. If the Participant is or has been a participant in one (1) or more other eligible plans within the meaning of section 457(b) of the Code, then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this section (3). For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan;

2. Pre-participation years. In applying subsection (3)(C), a year shall be taken into account only if i) the Participant was eligible to participate in the Plan during all or a portion of the year and ii) Compensation deferred, if any, under the Plan during the year was subject to the Basic Annual Limitation described in subsection (3)(A) or any other plan ceiling required by section 457(b) of the Code;

3. Pre-2002 coordination years. For purposes of subparagraph (3)(C)2.B. (B), "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because

of a contribution to an organization described in section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of subparagraph (3)(C)2.B. (B) to the extent that the total of such contributions does not exceed the aggregate limit referred to in section 457(b)(2) of the Code for that year;

4. Disregard excess deferral. For purposes of subsections (3)(A), (3)(B) and (3)(C), an individual is treated as not having deferred compensation under a plan for a prior taxable year to the extent Excess Deferrals under the plan are distributed, as described in subsection (3)(E). To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an Excess Deferral for those prior years.

(E) Correction of Excess Deferrals. If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under section 457(b) of the Code for which the Participant provides information that is accepted by the Administrator, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant.

(F) Protection of Persons Who Serve in a Uniformed Service. An employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Annual Deferrals upon resumption of employment with the Employer equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five (5) years following the resumption of employment (or, if sooner, for a period equal to three (3) times the period of the interruption or leave).

(4) Benefit distributions shall be in accordance with the following:

(A) Benefit Distributions at Retirement or Other Severance from Employment. Upon retirement or other Severance from Employment (other than due to death), a Participant is entitled to receive a distribution of his or her Account Balance under any form of distribution permitted under subsection (4)(C) commencing at the date elected under subsection (4)(B). If a Participant does not elect otherwise, the distribution shall be paid as soon as practicable following Normal Retirement Age or, if later, following retirement or other Severance from Employment and payment shall be made in a lump sum.

(B) Election of Benefit Commencement Date. A Participant may elect to commence distribution of benefits at any time after retirement or other Severance from Employment by a notice filed at least thirty (30) days before the date on which benefits are to commence. However, in no event may distribution of benefits commence later than the date described in subsection (4)(H).

(C) Forms of Distribution. In an election to commence benefits under subsection (4)(B), a Participant entitled to a distribution of benefits under this section (4) may elect to receive payment in such forms of distribution described in the Plan, to the extent the material terms and conditions for those forms are set forth in the Plan and the additional forms of payment satisfy the requirements of section 401(a)(9) of the Code and are not inconsistent with this section (4).

(D) Death Benefit Distributions. Commencing no later than the calendar year following the calendar year of the Participant's death, the Participant's Account Balance shall be paid to the Beneficiary in a lump sum.

(E) Account Balances of Five Thousand Dollars (\$5,000) or Less. Notwithstanding subsections (4)(B), (4)(C) and (4)(D), if the amount of a Participant's Account Balance is not in excess of five thousand dollars (\$5,000) (or the dollar limit under section 411(a)(11) of the Code, if greater) on the date that payments commence under subsection (4)(C) or on the date of the Participant's death, then payment shall be made to the Participant (or to the Beneficiary if the Participant is deceased) in a lump sum equal to the Participant's Account Balance as soon as practicable following the Participant's retirement, death, or other Severance from Employment; provided, however, that if the amount of a Participant's Account Balance is in excess of one thousand dollars (\$1,000), then any such lump sum payment to the Participant may not be made prior to the Participant's Normal Retirement Age without the Participant's written consent.

(F) Amount of Account Balance. Except as provided in subsection (4)(C), the amount of any payment under this section (5) shall be based on the amount of the Account Balance on the preceding Valuation Date.

(G) Revocation of Prior Election. Any election made under this section (4) may be revoked at any time.

(H) Latest Distribution Date. In no event shall any distribution under this section (4) begin later than the later of:

1. April 1 of the year following the calendar year in which the Participant attains age seventy and one-half (70 1/2); or

2. April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment. If distributions commence in the calendar year following the later of the calendar year in which the Participant attains age seventy and one-half (70 1/2) or the calendar year in which the Severance from Employment occurs, the distribution on the date that distribution commences must be equal to the annual installment payment for the year that the Participant has a Severance from Employment determined under subsection (4)(C) and an amount equal to the annual installment payment for the year after Severance from Employment determined under subsection (4)(C) must also be paid before the end of the calendar year of commencement.

(I) Unforeseeable Emergency Distribution.

1. Distribution. If the Participant has an unforeseeable emergency before retirement or other Severance from the Employment, the Participant may elect to receive a lump sum distribution equal to the amount requested or, if less, the maximum amount determined by the Administrator to be permitted to be distributed under this subsection (4)(I).

2. Unforeseeable emergency defined. An unforeseeable emergency is defined as a severe financial hardship of the Participant resulting from: an illness or accident of the Participant, the Participant's spouse, or the Participant's dependent (as defined in section 152(a)); loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in section 152(a) of the Code); or other similar extraordinary circumstances arising as a result of events beyond the control of the Participant. For example, the imminent foreclosure of or eviction from the Participant's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including nonrefundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Except as otherwise specifically provided in this subsection (4)(I), neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.

3. Unforeseeable emergency distribution standard. A distribution on account of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the plan.

4. Distribution necessary to satisfy emergency need. Distributions because of an unforeseeable emergency may not exceed the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

(J) Distributions for Certain Account Balances of Five Thousand Dollars (\$5,000) or Less. At the direction of the Administrator, a Participant's total Account Balance shall be paid in a lump sum as soon as practical following the direction if—

1. The total Account Balance does not exceed five thousand dollars (\$5,000) (or the dollar limit under section 411(a)(11) of the Code, if greater);

2. The Participant has not previously received a distribution of the total amount payable to the Participant under this subsection (4)(J);

3. No Annual Deferral has been made with respect to the Participant during the two (2)-year period ending immediately before the date of the distribution; and

4. The Participant elects to receive the distribution.

(K) Rollover Distributions.

1. A Participant or the surviving spouse of a Participant who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover.

2. For purposes of this subsection (4)(K), an eligible rollover distribution means any distribution of all or any portion of a Participant's Account Balance, except that an eligible rollover distribution does not include—

A. Any installment payment under subsection (4)(C) for a period of ten (10) years or more;

B. Any distribution made under subsection (4)(I) as a result of an unforeseeable emergency; or

C. For any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

(5) Rollovers to the Plan and transfers shall be in accordance with the following:

(A) Eligible Rollover Contributions to the Plan.

1. A Participant who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code.

2. For purposes of paragraph (5)(A)1., an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include a) any installment payment for a period of ten (10) years or more, b) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, or c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code. In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual

retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

3. The Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under section 457(b) of the Code. In addition, the Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under section 457(b) of the Code;

(B) Plan-to-Plan Transfers to the Plan. At the direction of the Employer, the Administrator may permit a class of Participants who are participants in another eligible governmental plan under section 457(b) of the Code to transfer assets to the Plan as provided in this subsection (5)(B). Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Administrator. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with section 457(e)(10) of the Code and section 1.457-10(b) of the Income Tax Regulations and to confirm that the other plan is an eligible governmental plan as defined in section 1.457-2(f) of the Income Tax Regulations. The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under section (3);

(C) Plan-to-Plan Transfers from the Plan.

1. At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of section 457(b) of the Code and section 1.457-2(f) of the Income Tax Regulations. A transfer is permitted under this paragraph (5)(C)1. for a Participant only if the Participant has had a Severance from Employment with the Employer and is an employee of the entity that maintains the other eligible governmental plan. Further, a transfer is permitted under this paragraph (5)(C)1. only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

2. Upon the transfer of assets under this subsection (5)(C), the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this subsection (5)(C)1. (for example, to confirm that the receiving plan is an eligible governmental plan under paragraph (5)(C)1., and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to section 1.457-10(b) of the Income Tax Regulations.

(6) The Trust Funds shall be in accordance with the following:

(A) Trust Fund. All amounts of Annual Deferrals, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held and invested in the Trust Fund in accordance with this Plan and the Trust Agreement. The Trust Fund, and any subtrust established under the Plan, shall be established pursuant to a written agreement that constitutes a valid trust under the law of the state of Missouri. The Trustee shall ensure that all investments, amounts, property, and rights held under the

Trust Fund are held for the exclusive benefit of Participants and their Beneficiaries. The Trust Fund shall be held in trust pursuant to the Trust Agreement for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of the Plan and of the Trust Fund. It shall be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Trust Fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

(7) This 16 CSR 50-20.120 shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this 16 CSR 50-20.120.

AUTHORITY: section 50.1300, RSMo 2000. Original rule filed Nov. 10, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

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

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 267.645, RSMo 2000, the director amends a rule as follows:

2 CSR 30-2.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2005 (30 MoReg 1529-1532). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received from the public but with the passing of Senate Bill 355 including llamas, alpacas and buffalo to the definition of livestock, llamas and alpacas are being removed from Miscellaneous and Exotic Animals and placed in section (12) Llamas and Alpacas. Due to the increased interest and concern of our captive cervid industry, cervids have been removed from Miscellaneous and Exotic Animals and placed in section (11) Captive Cervids. With the addition of new sections (11) and (12) each section thereafter has been renumbered which created a new section (15) Miscellaneous and Exotic Animals. Further administrative review of section (4) was the correction of "dams" to "dam" and in sections (13) and (14) the words "certificate of veterinary inspection" were capitalized.

2 CSR 30-2.010 Health Requirements Governing the Admission of Livestock, Poultry and Exotic Animals Entering Missouri

(4) Cattle and Bison.

(A) Baby Calves—

1. Interstate movement of calves under two (2) months of age to a Missouri livestock market is prohibited unless calves are accompanied by their dam; and

2. Calves under two (2) months of age not accompanied by their dam may be imported by resident buyers only, directly to a Missouri farm, and must meet the following requirements:

A. Entry permits must be obtained on all shipments of calves under two (2) months of age. All calves under two (2) months of age will be quarantined to the receiving farm for sixty (60) days; and

B. All calves under two (2) months of age must be individually identified by official eartag on the Certificate of Veterinary Inspection.

(11) Captive Cervids.

(A) 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, 2003*, published by USDA, Veterinary Services, Animal Health Program, 4700 River Road, Unit 36, Riverdale, MD 20737-1231; telephone 301-734-6954; e-mail www.aphis.gov/lpa/pubs/umr.html. This rule does not incorporate any subsequent amendments or additions.

(B) Brucellosis Requirements.

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.

(C) Tuberculosis Requirements.

1. 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.

2. Movement from status herds.

A. Accredited herd—captive cervids originating from an 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 the 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 of Veterinary Inspection stating that such captive cervids originated from such herds and have not been exposed to captive cervids from a lower status herd.

(D) Chronic Wasting Disease (CWD).

1. Captive cervids will not be allowed to enter the state if within the last five (5) years the animal:

A. Is from an area that has been reported as a chronic wasting disease (CWD) endemic area;

B. Has been in a CWD endemic area; or

C. Originates from a CWD positive captive herd.

2. Until 2008, elk, elk-hybrids, red deer, sika deer, white-tailed deer, and mule deer entering Missouri from any state must have participated in a surveillance program since 2002. Beginning in 2008, surveillance will be required for five (5) consecutive years before the above-mentioned animals will be allowed to enter Missouri from any state.

3. Other captive cervids other than elk, elk-hybrids, red deer, sika deer, white-tailed deer and mule deer must have participated in a surveillance program recognized by the state of origin prior to entering Missouri.

4. All captive white-tailed deer that enter Missouri with two (2) years of CWD monitoring in an approved surveillance program and remained in Missouri at the time of death, must be tested for CWD.

(12) Llamas and Alpacas.

(A) Llamas and alpacas must be identified by tattoo, microchip, eartag or other approved device and be listed individually on a Certificate of Veterinary Inspection.

(B) No test is required.

(13) Psittacine birds, except budgerigar, must have a Certificate of Veterinary Inspection to enter Missouri.

(14) Ratites (Including but not limited to ostrich and emu). A Certificate of Veterinary Inspection is required on all ratites entering Missouri, except farm of origin ratites consigned to an approved slaughter establishment. Ratites must be individually identified by a means approved by the Missouri state veterinarian on the Certificate of Veterinary Inspection.

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

(A) Exotic bovids eight (8) months of age and over must have a negative brucellosis test and a negative tuberculosis test within thirty (30) days prior to shipment. Exotic bovids include *Bos gaurus* (Indian bison, Gaur), *Bos javanicus* (Banteng), *Bos sauveli* (Kouprey), *Bos grunniens* (domesticated yak), *Bubalus bubalis* (water buffalo), *Bubalus mindorensis* (Tamarau), *Bubalus quarlesi* (Mountain Anoa), *Bubalus depressicornis* (Lowland Anoa) and *Snycerus caffer* (buffalo group).

(B) Camels and others of that group must be identified by tattoo, microchip, eartag or other approved device and be listed individually on a Certificate of Veterinary Inspection.

(C) Exotic equine, donkeys, asses, burros and zebras must meet domestic equine requirements.

(D) Exotic goats, sheep and antelope, no tests are required on these animals.

(E) Feral swine, javalena, and peccaries must be in compliance with domestic swine requirements.

(F) Elephants (Asiatic, African) must test negative for tuberculosis within one (1) year prior to entry.

(G) Importation of skunks and raccoons into Missouri is prohibited by the *Missouri Wildlife Code*, 3 CSR 10-9.

(H) Animals moving between publicly-owned American Zoos and Aquariums (AZA)-accredited zoos are exempt from section (11) except cervids moving between publicly-owned AZA-accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in subsection (11)(D).

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-4.135 Transportation is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2005 (30 MoReg 2017). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-4.136 Giving Away Wildlife is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2005 (30 MoReg 2017-2018). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-4.137 Wildlife Identification is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2005 (30 MoReg 2018). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-4.140 Possession, Storage and Processing is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2005 (30 MoReg 2018). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-4.145 Preparing and Serving Wildlife is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2005 (30 MoReg 2018–2019). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-6.535 Trout is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2005 (30 MoReg 2019). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas
Owned by Other Entities**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.115 Bullfrogs and Green Frogs is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2005 (30 MoReg 2019). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas
Owned by Other Entities**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.125 Hunting and Trapping is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2005 (30 MoReg 2019–2020). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 70—State Board of Chiropractic Examiners
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the State Board of Chiropractic Examiners under sections 43.543, RSMo Supp. 2004 and 331.070 and 331.100.2, RSMo 2000, the board amends a rule as follows:

4 CSR 70-2.090 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2005 (30 MoReg 1792-1794). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.060 and 338.140, RSMo 2000, the board amends a rule as follows:

4 CSR 220-2.100 Continuing Pharmacy Education is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2005 (30 MoReg 1534-1537). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 4—Fees Charged by the Board of Pharmacy**

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.020, 338.035, 338.040, 338.060, 338.070, 338.140, 338.185, 338.280 and 338.350, RSMo 2000 and 338.013 and 338.220, RSMo Supp. 2004, the board amends a rule as follows:

4 CSR 220-4.010 General Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2005 (30 MoReg 1538). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 5—Drug Distributor**

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.330, 338.333, 338.335, 338.337, 338.340 and 338.350, RSMo 2000, the board amends a rule as follows:

**4 CSR 220-5.020 Drug Distributor Licensing Requirements
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2005 (30 MoReg 1538-1539). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 263—State Committee for Social Workers
Chapter 2—Licensure Requirements**

ORDER OF RULEMAKING

By the authority vested in the State Committee for Social Workers under sections 337.627, RSMo 2000 and 337.600, 337.612, 337.615, 337.665 and 337.677 RSMo Supp. 2004, the committee amends a rule as follows:

**4 CSR 263-2.031 Acceptable Supervisors and Supervisor
Responsibilities is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2005 (30 MoReg 1708). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accreditation**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 160.522 and 161.092, RSMo Supp. 2004, the board rescinds a rule as follows:

**5 CSR 50-340.200 Annual Public Reporting of Information by
School Districts is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1620). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 345—Missouri School Improvement Program**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2004, the board adopts a rule as follows:

5 CSR 50-345.300 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1620–1621). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Elementary and Secondary Education (DESE) received the following comments regarding the proposed rule.

COMMENT: Three hundred eighty-one (381) comments and petitions with a total of three hundred twenty-nine (329) signatures were received in favor of the new one-half unit of Personal Finance as stated in section (1). Seven (7) of those comments were in favor of the Personal Finance requirement and the recommendation that the course be taught by Business Education teachers. Twenty (20) of the comments advocated the Personal Finance requirement that the course be taught by Family and Consumer Science teachers.

RESPONSE: The rule as proposed gives school districts flexibility to assign the Personal Finance course to the staff member that is most qualified to teach the content. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

COMMENT: Ten (10) comments were received in support of allowing school districts to embed the Personal Finance competencies into other subject areas. Additionally, two (2) comments were received in favor of allowing districts flexibility in granting credits through some sort of a competency test, thus allowing students to “test out” of coursework where they have already mastered the competencies.

RESPONSE AND EXPLANATION OF CHANGE: In section (1), an asterisk will be added by the Personal Finance requirement to more clearly define the credit requirement. The change in section (3) allows local school districts to award credit to students based on demonstrated mastery of desired course competencies in addition to awarding credit for successfully completing the required minutes of instruction for a unit of credit.

COMMENT: Two (2) comments were received regarding the content of the curriculum for the Personal Finance class in section (1).

RESPONSE: A state model curriculum will be developed for schools to use. At the minimum, statewide competencies will be created that will allow school districts to create their own Personal Finance curriculum. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

COMMENT: One (1) comment was received in opposition to requiring a Personal Finance requirement for graduation in section (1).

RESPONSE: The Personal Finance requirement appears to be an appropriate response to the levels of consumer debt and the duty of public schools of Missouri to prepare students for adult life, including the ability to manage their finances. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

COMMENT: One hundred seventy-one (171) comments were received in support of the maintenance of separate graduation requirements for Practical Arts and Fine Arts in section (1). Five (5) comments were received that recommended restoring the High School Task Force’s recommendation of combining the Fine Arts and Practical Arts graduation requirements.

RESPONSE: During regional meetings earlier in the year and as evidenced by the number of comments received regarding keeping those requirements different, it is evident that Missouri high school students need exposure and skills in both Fine Arts and Practical Arts. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

COMMENT: One (1) comment recommended the elimination of a health requirement in section (1) for graduation because of the difficulty in finding properly certificated teachers.

RESPONSE: Most school districts in the state already have a half unit of health required for graduation. The importance of Missouri students being aware of their own health issues outweighs the difficulty some districts may have in finding appropriately certificated personnel. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

COMMENT: Four (4) comments were received that suggested increasing the graduation requirements in Physical Education in section (1).

RESPONSE: Increasing the number of Physical Education credits required for graduation would decrease student electives. The High School Task Force did not make a recommendation to increase Physical Education requirements. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

COMMENT: Fifty-four (54) comments were received in opposition to the increased core area graduation requirements. Most of the concerns centered around the detrimental effect that increasing the core requirements will have on elective programs and on career education programs.

RESPONSE: The proposed increase in the core graduation requirements specifically links the increased requirements to the Grade-Level Expectations and subject area competencies. School districts may infuse those core area requirements into career education or other classes and award core area credit for those classes. As for the other elective subjects, even with the increased core area requirements, there are still seven (7) units of elective credit for students. If high school is designed to create well-rounded students, it seems that should be sufficient to allow students to pursue a particular area of interest and still have well-rounded skills. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

COMMENT: Three (3) comments were received concerning the likelihood that school districts would see an increased dropout rate as the new graduation requirements are implemented.

RESPONSE: It is possible that the increased graduation requirements could result in a temporary increase in the dropout rate. School districts must be willing to create appropriate supports and extended learning time activities to ensure that all high school students are making good progress towards graduation. It is important for school districts to ensure that all high school courses are rigorous and relevant. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

COMMENT: Two (2) comments were received about the cost of implementing the new requirements.

RESPONSE: Review by the department has determined that in most cases, existing district graduation standards meet or exceed the minimum standards currently under consideration by the State Board of Education. In addition, the timeline for these standards provide flexibility to allow school districts to refocus existing school resources to meet these standards.

COMMENT: One (1) comment was received regarding the impact of the new graduation requirements on gifted and talented students and their ability to graduate early from high school.

RESPONSE: School districts have the option to create competency exams for some courses, so the ability of any student to graduate early should not be impacted. In addition, students can choose to fulfill additional graduation requirements through alternative means such as correspondence and online coursework. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

COMMENT: One (1) comment was received stating that increasing graduation requirements does not ensure student readiness for post-high school success and advocated the need for a high stakes exit exam for students.

RESPONSE: DESE recognizes that merely increasing graduation requirements will not necessarily result in better prepared students. That is the reason that those increased requirements are linked to student competencies, rather than course names. DESE will be having ongoing discussion regarding the issue of high school exit exams. We will continue to study and discuss this issue with educators and citizens in the state. The board carefully considered the comment and decided to make no changes to the text of the proposed rule.

5 CSR 50-345.300 Graduation Requirements for Students in Public High Schools

(1) High School Graduation Requirements. Effective for the graduating class of 2010 and thereafter, the state minimum high school graduation requirements comprise twenty-four (24) units of credit that must be earned between grades nine (9) and twelve (12). The requirements are stated in terms of the number of units of credit that must be earned in each subject area:

Subject Area	Units of Credit
Communication Arts	4.0
Social Studies	3.0
Mathematics	3.0
Science	3.0
Fine Arts	1.0
Practical Arts	1.0
Physical Education	1.0
Health Education	.5
Personal Finance	.5*
Electives	7.0
Total Credits	24.0

* The .5 unit of credit of Personal Finance may be earned in social studies, practical arts or as an elective. If earned in social studies or practical arts, the required units of credit in that area are reduced by .5 (i.e. social studies from 3.0 to 2.5) and the elective total is increased to 7.5.

(3) Course Requirements. In order to earn one standard unit of high school credit, a student must earn a passing grade in that course. A standard unit of credit is defined by a course that meets for seven thousand eight hundred thirty (7,830) minutes during a school year. Half- and quarter-units of credit may be earned for courses meeting proportionately fewer minutes. However, if a student demonstrates mastery of the required competencies of a course, the district may grant credit through an alternative method with prior approval by DESE. Alternative time schedules may be approved if requested by the district.

**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 70—Special Education
Chapter 742—Special Education**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 160.900-160.925, RSMo Supp. 2005 and 161.092, RSMo Supp. 2004, the board hereby amends a rule as follows:

5 CSR 70-742.141 is amended.

A notice of proposed rulemaking was not published because state program plans required under federal education acts or regulations are specifically exempt under section 536.021, RSMo. Public hearings were held on September 6, 2005, in St. Louis and Kansas City; September 7, 2005, in Springfield; and September 9, 2005, in Jefferson City.

This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*. This rule describes Missouri’s services for infants and toddlers with disabilities, in accordance with Part C of the Individuals with Disabilities Education Act (IDEA), Public Law 105-17.

5 CSR 70-742.141 Individuals with Disabilities Education Act, Part C. This order of rulemaking makes changes to section (2) and amends the incorporated by reference material, *Regulations Implementing Part C of the Individuals with Disabilities Education Act*.

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.

(2) The Missouri state plan for the Individuals with Disabilities Education Act (IDEA), Part C contains the administrative provisions for the delivery of the state’s federally assisted early intervention system. The Missouri state plan for the IDEA, Part C is hereby incorporated by reference and made a part of this rule. A copy of the IDEA, Part C (revised October 2005) is published by and can be obtained from the Department of Elementary and Secondary Education, Special Education Compliance Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: sections 160.900-160.925, RSMo Supp. 2005 and 161.092, RSMo Supp. 2004, Executive Order 94-22 of the Governor, Individuals with Disabilities Education Act, 20 U.S.C. section 1431, et seq. Original rule filed Dec. 29, 1997, effective March 30, 1998. Amended: Filed July 31, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 7, 2000, effective Feb. 28, 2001. Amended: Filed Dec. 7, 2000, effective March 30, 2001. Amended: Filed Feb. 18, 2003, effective April 30, 2003. Amended: Filed Jan. 5, 2004, effective March 30, 2004. Amended: Filed Nov. 14, 2005.

PUBLIC COST: This order of rulemaking will cost state agencies or political subdivisions \$26,136,184 in the aggregate for Fiscal Year 2006 assuming the life of the rule is for two (2) fiscal years based on the one (1)-year extension by the federal government to submit a new state plan.

**FISCAL NOTE
PUBLIC COST**

I. RULE NUMBER

Title: 5 Department of Elementary and Secondary Education
Division: 70 Division of Special Education
Chapter: 742 Special Education
Type of Rulemaking: Order of Rulemaking
Rule Number and Name: 5 CSR 70-742.141 Individuals with Disabilities Education Act,
Part C

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Elementary and Secondary Education	\$26,136,184

III. WORKSHEET

Cost estimates are based on projected expenditures from all sources during Fiscal Year 2006. Expenditures support early intervention services, training, technical assistance, and administrative costs for the First Steps system.

IV. ASSUMPTIONS

Fund 0101 Appropriation 4112	\$13,050,703
Fund 0105 Appropriation 4580	\$10,506,837
Fund 0859 Appropriation 3180	\$578,644
Fund 0499 Appropriation 6974	<u>\$2,000,000</u>
	\$26,136,184

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, 168.405 and 168.409, RSMo 2000 and 161.092, 168.021, 168.071, 168.081 and 168.400, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.200 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1621–1622). Changes have been made in the text of the proposed amendment and the *Compendium of Missouri Certification Requirements* which is incorporated by reference. Those sections of the proposed amendment with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received three (3) letters of comment.

COMMENT: Two (2) letters point out that the material, incorporated by reference, in the February 2006 *Compendium of Missouri Certification Requirements* provides little assurance that the information provided is the final language because the future document is not yet published.

RESPONSE: The compendium has been drafted and has been available for review on the Department of Elementary and Secondary Education's web site. February 2006 reflects that date in which these changes will become effective. The only modifications to the compendium will be in reaction to comment received during the public comment period.

COMMENT: One (1) letter supports the Career Continuous Student Services certificate model requiring ongoing professional development as the responsibility of the individual.

RESPONSE AND EXPLANATION OF CHANGE: The board carefully reviewed the comments and will make the corrections in the compendium, which is incorporated by reference.

COMMENT: The board received a comment on behalf of the Joint Committee on Administrative Rules (JCAR) raising a question relating to the effective date of the *Compendium of Missouri Certification Requirements* (compendium). JCAR suggested that the compendium should reflect, as its effective date, the date of adoption by the State Board of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comment and will make the suggested change in the text of the proposed amendment.

5 CSR 80-800.200 Application for Certificate of License to Teach

(1) An applicant for a Missouri certificate of license to teach who possesses good moral character and has successfully completed a state-approved teacher preparation program or earned a doctoral degree may be granted an initial Missouri certificate of license to teach in their major area of study subject to the specific certification requirements found in the *Compendium of Missouri Certification Requirements* (compendium) which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised October 2005), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendment or additions.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, 168.405 and 168.409, RSMo 2000 and 161.092, 168.021, 168.071, 168.081 and 168.400, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.220 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1623–1624). Changes have been made in the text of the proposed amendment and the *Compendium of Missouri Certification Requirements* which is incorporated by reference. Those sections of the proposed amendment with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received one (1) letter of comment.

COMMENT: One (1) comment letter points out that the compendium lists special education curriculum as a course requirement. There is no special education curriculum and the course title would be more accurate listed as “differentiating instruction in the general education curriculum.”

RESPONSE AND EXPLANATION OF CHANGE: The board carefully reviewed the comment and will make corresponding changes in the compendium which is incorporated by reference.

COMMENT: The board received a comment on behalf of the Joint Committee on Administrative Rules (JCAR) raising a question relating to the effective date of the *Compendium of Missouri Certification Requirements* (compendium). JCAR suggested that the compendium should reflect, as its effective date, the date of adoption by the State Board of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comment and will make the suggested change in the text of the proposed amendment.

5 CSR 80-800.220 Application for Certificate of License to Teach for Administrators

(1) An applicant may be granted an administrator certificate of license to teach in the following areas subject to the specific certification requirements found in the *Compendium of Missouri Certification Requirements* (compendium) which is incorporated by reference and made a part of this rule and criteria established in the rules promulgated by the State Board of Education (board), to an individual who possesses good moral character. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education, (revised October 2005) may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions:

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, RSMo 2000 and 161.092, 168.021, 168.071, 168.081 and 168.400, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.230 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1625-1629). Changes have been made in the text of the proposed amendment and the *Compendium of Missouri Certification Requirements* which is incorporated by reference. Those sections of the proposed amendment with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received sixteen (16) letters of comment.

COMMENT: The board received one (1) letter requesting the title Career education placement coordinator be changed to Career services coordinator.

RESPONSE AND EXPLANATION OF CHANGE: The board carefully reviewed the comment and has made changes in the compendium, which is incorporated by reference, and changed the title of Career education placement coordinator. The board carefully reviewed the comments and will change paragraph (1)(C)3. and sections (10) and (15).

COMMENT: The board received eleven (11) letters expressing concern at the elimination of a master's degree in school counseling, counseling, or counseling psychology.

RESPONSE AND EXPLANATION OF CHANGE: The board carefully reviewed the comments and has made changes in the compendium, which is incorporated by reference, and expanded the master's degree areas eligible for consideration in granting school counselors, school psychological examiners, and career education counselors certification to include education and closely related mental health discipline areas. The board carefully reviewed the comments and will change paragraphs (5)(B)2., (6)(B)2., and (9)(B)2.

COMMENT: The board received letters from Southeast Missouri State University and Southwest Missouri State University objecting to the elimination of the course requirement for administration of individualized intelligence testing.

RESPONSE: The board carefully reviewed the comments, which pertains to a change in the compendium, and decided to make no changes to the proposed amendment.

COMMENT: The board received letters from Southeast Missouri State University and Southwest Missouri State University objecting to the discontinuance of the category, school psychological examiner, in 2015.

COMMENT: The board received two (2) letters in support of discontinuing the psychological examiner certificate.

RESPONSE AND EXPLANATION OF CHANGE: The board carefully reviewed the comments and has made changes to paragraph (1)(B)1. and the compendium, which is incorporated by reference, retaining the area of certification of school psychological examiners.

COMMENT: The board received a letter from the Missouri Association of Elementary School Principals supporting changes to certification requirements and broadening the degrees allowed for counseling.

COMMENT: The board received one (1) letter from the Missouri Special Needs Association pointing out that vocational evaluators and career education counselors had been combined into one licensure area; however, the vocational evaluators were not represented as a valid degree for eligibility in career education counseling.

RESPONSE AND EXPLANATION OF CHANGE: The board carefully reviewed the comments and has made changes in the compendium, which is incorporated by reference, and inserted language to include existing vocational evaluators in the career education counselor licensure requirements in section (9).

COMMENT: The board received a letter from the Missouri Association of School Psychologists suggesting that an education specialist's degree or equivalent be accepted for school psychologists' requirements.

RESPONSE AND EXPLANATION OF CHANGE: The board carefully reviewed the comments and has made changes in the compendium, which is incorporated by reference, and inserted language in subsection (7)(B).

COMMENT: The board received one (1) letter from the Missouri State Guidance Advisory Council expressing concern that the three hundred (300) hours of internship appears to reduce the qualifications of school counselors from Council for Accreditation Counseling Related Educational Programs (CACREP) accredited standards.

RESPONSE: The board carefully considered the comment and decided to make no changes to the text of the proposed amendment.

COMMENT: The board received a comment on behalf of the Joint Committee on Administrative Rules (JCAR) raising a question relating to the effective date of the *Compendium of Missouri Certification Requirements* (compendium). JCAR suggested that the compendium should reflect, as its effective date, the date of adoption by the State Board of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comment and will make the suggested change in the text of the proposed amendment.

5 CSR 80-800.230 Application for a Student Services Certificate of License to Teach

(1) An applicant for a student services certificate of license to teach may be granted in the following areas subject to the specific certification requirements found in the *Compendium of Missouri Certification Requirements* (compendium) which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised October 2005), may contact the Educator Certification Section, PO Box 480, Jefferson City, MO 65102-0480. The criteria established in the rules, promulgated by the State Board of Education (board), to an individual who possesses good moral character is:

(B) School Psychological Services Personnel:

1. School psychological examiner, grades K-12; and/or
2. School psychologist, grades K-12;

(C) Career Education Services Personnel:

1. Adult education supervisor;
2. Career education counselor (excluding K-8); and/or
3. Career services coordinator.

(5) The applicant for a student services certificate of license to teach as a school counselor must comply with the following additional criteria:

(B) The applicant must possess either:

1. A master's or higher degree in school counseling from a state-approved school counselor preparation program; or
2. A master's or higher degree in education, school counseling, counseling, counseling psychology, or a closely related mental health discipline with additional graduate course work specific to school counseling, as designated by the state-approved recommending certification official, including a supervised internship or field experience of at least three hundred (300) hours in an appropriate school setting; and

(6) The applicant for a student services certificate of license to teach as a school psychological examiner must comply with the following additional criteria:

(B) The applicant must possess either:

1. A master's or higher degree from a state-approved school counselor preparation program; or

2. A master's or higher degree in education, school counseling, counseling, counseling psychology, or a closely related mental health discipline; and complete a designated graduate curriculum in the practice of the school psychological examiner, as specified by the recommending certification program, including a supervised internship or field experience in school psychological assessment of at least one hundred fifty (150) hours in an appropriate school setting.

(7) The applicant for a student services certificate of license to teach as a school psychologist must comply with the following additional criteria:

(B) The applicant must possess an education specialist's or equivalent degree in school psychology from a state-approved program; and

(9) The applicant for a student services certificate of license to teach as a career education counselor must comply with the following additional criteria:

(A) The applicant shall request and obtain the recommendation of the designated certification official for a state-approved master's or higher level school counselor preparation program; and

(B) The applicant must possess either:

1. A master's or higher degree in school counseling from a state-approved school counselor preparation program; or

2. A master's or higher degree in education, school counseling, counseling, counseling psychology, rehabilitation counseling, vocational evaluation, or a closely related mental health discipline with additional graduate course work specific to school counseling, as designated by the state-approved recommending certification official, including a supervised internship or field experience of at least three hundred (300) hours in an appropriate school setting; and

(C) The applicant must either:

1. Possess a bachelor's degree in education from a state-approved teacher preparation program; or

2. Complete a curriculum in teaching methods and practices, classroom management and the psychology of the exceptional child, as specified by the recommending certification officer of the state-approved program; and

(D) The applicant must achieve a score equal to or in excess of the qualifying score on the exit assessment(s), not to include the principles of learning and teaching, as defined in the rules promulgated by the board. An official score report shall be submitted to DESE.

(10) The applicant for a student services certificate of license to teach as a career services coordinator must comply with the following additional criteria:

(A) The applicant must possess a bachelor's degree or higher degree in a business-related field or human resources.

(15) An initial student services certificate of license to teach may be issued for a school counselor, school psychological examiner, career education counselor, adult education supervisor, career services coordinator, speech-language pathologist, and/or school psychologist for a period of four (4) years and may be renewed as set forth in the compendium.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, RSMo 2000 and 161.092, 168.021, 168.071, 168.081 and 168.083, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.260 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1630-1631). Changes have been made in the text of the proposed amendment and the *Compendium of Missouri Certification Requirements* which is incorporated by reference. Those sections of the proposed amendment with changes are printed here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received a comment on behalf of the Joint Committee on Administrative Rules (JCAR) raising a question relating to the effective date of the *Compendium of Missouri Certification Requirements* (compendium). JCAR suggested that the compendium should reflect, as its effective date, the date of adoption by the State Board of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comment and will make the suggested change in the text of the proposed amendment.

5 CSR 80-800.260 Temporary Authorization Certificate of License to Teach

(7) The applicant for a temporary authorization certificate (excluding a temporary authorization administrator's and/or career education certificate) must comply with the following criteria:

(D) If this is the applicant's initial certificate of license to teach, documentation of a plan of study based upon required certification competencies incorporated in classes provided by an accredited college or university. If the applicant holds an initial Missouri professional or life certificate of license to teach and is seeking an additional certificate of license to teach, a transcript analysis from DESE based on the requirements set forth in the *Compendium of Missouri Certification Requirements* (compendium) which is incorporated by reference and made a part of this rule must be submitted. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised October 2005), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, RSMo 2000 and 161.092, 168.021, 168.071 and 168.081, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.270 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1632-1633). Changes have been made in the text of the proposed amendment and the *Compendium of Missouri Certification Requirements* which is incorporated by reference. Those sections of the proposed amendment with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received a comment on behalf of the Joint Committee on Administrative Rules (JCAR) raising a question relating to the effective date of the *Compendium of Missouri Certification Requirements* (compendium). JCAR suggested that the compendium should reflect, as its effective date, the date of adoption by the State Board of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comment and will make the suggested change in the text of the proposed amendment.

5 CSR 80-800.270 Application for a Career Education Certificate of License to Teach

(5) The applicant must comply with the specific requirements for the various career education certificates of license to teach as set forth in the *Compendium of Missouri Certification Requirements* (compendium) which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised October 2005), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, RSMo 2000 and 161.092, 168.021, 168.071 and 168.081, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.280 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1634–1635). Changes have been made in the text of the proposed amendment and the *Compendium of Missouri Certification Requirements* which is incorporated by reference. Those sections of the proposed amendment with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received a comment on behalf of the Joint Committee on Administrative Rules (JCAR) raising a question relating to the effective date of the *Compendium of Missouri Certification Requirements* (compendium). JCAR suggested that the compendium should reflect, as its effective date, the date of adoption by the State Board of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comment and will make the suggested change in the text of the proposed amendment.

5 CSR 80-800.280 Application for an Adult Education and Literacy Certificate of License to Teach

(5) The following AEL professional classification certificates of license to teach may be issued and renewed as set forth in the *Compendium of Missouri Certification Requirements* (compendium) which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised October 2005), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson

City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions:

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, RSMo 2000 and 161.092, 168.021, 168.071 and 168.081, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.290 Application for Substitute Certificate of License to Teach is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1636–1637). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011 and 168.405, RSMo 2000 and 161.092, 168.021, 168.071, 168.081 and 168.400, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.350 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1638–1639). Changes have been made in the text of the proposed amendment and the *Compendium of Missouri Certification Requirements* which is incorporated by reference. Those sections of the proposed amendment with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received four (4) letters of comment.

COMMENT: The board received one (1) letter from the Missouri Association of School Psychologists supporting the discontinuation of the school psychological examiner's area.

COMMENT: The board received two (2) letters opposing the discontinuation of the school psychological examiner's area.

RESPONSE AND EXPLANATION OF CHANGE: The board carefully reviewed the comments and has made changes in subsection (2)(I) and the compendium, which is incorporated by reference, retaining the area of certification of school psychological examiners.

COMMENT: The board received one (1) letter requesting the title career education placement coordinator be changed to career services coordinator.

RESPONSE AND EXPLANATION OF CHANGE: The board carefully reviewed the comments and has made changes in the compendium, which is incorporated by reference, and changing the title of career education placement coordinator. The board carefully reviewed the comments and made changes to paragraph (2)(I)6.

COMMENT: The board received a comment on behalf of the Joint Committee on Administrative Rules (JCAR) raising a question relating to the effective date of the *Compendium of Missouri Certification Requirements* (compendium). JCAR suggested that the compendium should reflect, as its effective date, the date of adoption by the State Board of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comment and will make the suggested change in the text of the proposed amendment.

5 CSR 80-800.350 Certificate of License to Teach Content Areas

(2) Certificates of license to teach are issued and renewed by the State Board of Education (board) pursuant to the certification requirements found in the *Compendium of Missouri Certification Requirements* (compendium) which is incorporated by reference and made a part of this rule and the rules promulgated by the board in the specialized areas as follows. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised October 2005), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

(I) Student services certificates of license to teach may be issued in one (1) or more of the following areas:

1. School counselor, grades K-8 and/or 7-12;
2. School psychological examiner, grades K-12;
3. School psychologist, grades K-12;
4. Adult education supervisor;
5. Career education counselor;
6. Career services coordinator; and/or
7. Speech-language pathologist, birth-grade 12;

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 80—Teacher Quality and Urban Education Chapter 800—Educator Certification

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, 168.128, 168.405 and 168.409, RSMo 2000 and 161.092, 168.021, 168.071, 168.081 and 168.400, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.360 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1640-1641). Changes have been made in the text of the proposed amendment and the *Compendium of Missouri Certification Requirements* which is incorporated by reference. Those sections of the proposed amendment with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received a comment on behalf of the Joint Committee on Administrative Rules (JCAR) raising a question relating to the effective date of the *Compendium of Missouri Certification Requirements* (compendium). JCAR suggested that the compendium should reflect, as its effective date, the date of adoption by the State Board of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comment and will make the suggested change in the text of the proposed amendment.

5 CSR 80-800.360 Certificate of License to Teach Classifications

(1) Certificates of license to teach are issued and renewed by the State Board of Education (board) pursuant to the certification requirements found in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule, and the rules promulgated by the board. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised October 2005), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 80—Teacher Quality and Urban Education Chapter 800—Educator Certification

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, 168.405 and 168.409, RSMo 2000 and 161.092, 168.021, 168.071, 168.081 and 168.400, RSMo Supp. 2004, the board amends a rule as follows:

5 CSR 80-800.380 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1642-1643). Changes have been made in the text of the proposed amendment and *Compendium of Missouri Certification Requirements* which is incorporated by reference. Those sections of the proposed amendment with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received a comment on behalf of the Joint Committee on Administrative Rules (JCAR) raising a question relating to the effective date of the *Compendium of Missouri Certification Requirements* (compendium). JCAR suggested that the compendium should reflect, as its effective date, the date of adoption by the State Board of Education.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comment and will make the suggested change in the text of the proposed amendment.

5 CSR 80-800.380 Required Assessments for Professional Education Certification in Missouri

(1) Each applicant seeking a Missouri certificate of license to teach will successfully complete an exit assessment to measure the applicant's competency in subject matter, pedagogical knowledge, or both, prior to being granted the certificate. An exemption exists if the applicant holds a valid certificate of license to teach from another state.

(A) The State Board of Education (board) has selected the Praxis II: Content Knowledge or Specialty Area assessments and the

Principles of Learning and Teaching assessments developed by the Educational Testing Service (ETS) as the exit assessments for certificates of license to teach. Qualifying scores are established by the board and published by ETS for each assessment designated for an area of certification.

1. Applicants seeking initial certificates of license to teach must complete and achieve a Missouri qualifying score in the content knowledge or specialty area assessment in their major area of preparation or the appropriate principles of learning and teaching assessment if no content knowledge or specialty area assessment is designated, except in the areas of special education, student services, and administration (see Appendix A, which is included herein).

2. Applicants holding a valid Missouri professional or life certificate of license to teach in a content area who are seeking an additional certificate(s) of license to teach in another content area(s), will receive the additional certificate(s) upon meeting either of the following conditions:

A. Complete and achieve a Missouri qualifying score for the Praxis II content knowledge or specialty area assessment designated for the certificate of license to teach, except for the areas of unified science, special education other than mild/moderate cross-categorical disabilities, student services, administration, career education, and adult education and literacy; or

B. Successfully complete the applicable certification requirements as set forth in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised October 2005), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

3. Applicants holding a valid Missouri professional or life certificate of license to teach in a secondary content area who are seeking additional certification for middle school in the same content area, will receive the additional certification upon meeting either of the following conditions:

A. Complete and achieve a Missouri qualifying score for the Praxis II: Principles of Learning and Teaching, grades five through nine (5-9), assessment; or

B. Successfully complete the applicable certification requirements for middle school education, grades five through nine (5-9), as set forth in the compendium.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 5—Missouri Veterans'
Recognition Program**

ORDER OF RULEMAKING

By the authority vested in the Adjutant General under sections 41.160 and 173.239, RSMo 2000, the director amends a rule as follows:

**11 CSR 10-5.010 Missouri Veterans' Recognition Program
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2005 (30 MoReg 1801-1803). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received during the comment period.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 35—Dental Program**

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under sections 208.152, RSMo Supp. 2004, 208.153 and 208.201, RSMo 2000, and Senate Substitute for Senate Bill 539 enacted by the 93rd General Assembly 2005, the division amends a rule as follows:

13 CSR 70-35.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2005 (30 MoReg 1562-1565). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Four (4) comments were received suggesting that the Division of Medical Services allow diagnosis codes on the dental claim to document the medical diagnosis in lieu of requiring prior authorization or physician orders for adult dental services when related to trauma or treatment of a medical condition without which the health of the individual would be adversely affected.

COMMENT: All four (4) comments from Missouri dentists suggested that the Division of Medical Services allow diagnosis codes on the dental claim to document the medical diagnosis in lieu of requiring prior authorization or physician orders for adult dental services when related to trauma or treatment of a medical condition without which the health of the individual would be adversely affected.

RESPONSE AND EXPLANATION OF CHANGE: Section (3) Recipient Eligibility has been changed. The rule will only require prior authorization for dental care related to trauma of the mouth, jaw, teeth, or other contiguous sites as a result of injury or for treatment of a disease/medical condition without which the health of the individual would be adversely affected if that care is not listed at section (19) subsection (3) of the *Medicaid Dental Provider Manual*.

13 CSR 70-35.010 Dental Benefits and Limitations, Medicaid Program

(3) Recipient Eligibility. The Medicaid dental provider shall ascertain the patient's Medicaid status before any service is performed. The recipient's Medicaid/MC+ eligibility is determined by the Family Support Division. The recipient's eligibility shall be verified from a current Medicaid/MC+ identification card or a letter of new approval in the recipient's possession. The patient must be a Medicaid eligible recipient under the Missouri Medicaid/MC+ program on the date the service is performed. The Division of Medical Services is not allowed to pay for any service to a patient who is not eligible under the Missouri Medicaid/MC+ program.

(A) Medicaid reimbursement of dental services shall be limited to Medicaid eligible needy children or persons receiving Medicaid under a category of assistance for pregnant women or the blind.

(B) Medicaid recipients living in a nursing facility will not experience dental service reductions. Nursing facility level of care must be indicated on the Medicaid eligibility file. When providing dental services to a recipient who is living in a nursing facility providers should continue to submit claims to Missouri Medicaid. Medicaid eligible nursing facility residents will have payments for dental care adjudicated through the Medicaid claims payment system.

(C) For all other eligibility categories of Medicaid assistance dental services will only be reimbursed if the dental care is related to trauma of the mouth, jaw, teeth, or other contiguous sites as a result

of injury or for treatment of a disease/medical condition without which the health of the individual would be adversely affected.

1. Reimbursement for dental care shall be limited to those procedure codes listed at section (19) subsection (3) of the *Medicaid Dental Provider Manual* which may be referenced at www.dss.mo.gov/dms; or

2. Prior authorization by the Division of Medical Services is required for dental care related to trauma of the mouth, jaw, teeth, or other contiguous sites as a result of injury or for treatment of a disease/medical condition without which the health of the individual would be adversely affected if that care is not listed at section (19) subsection (3) of the *Medicaid Dental Provider Manual*.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 45—Hearing Aid Program**

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under sections 208.153 and 208.201, RSMo 2000, and Senate Bill 539 enacted by the 93rd General Assembly 2005, the division amends a rule as follows:

13 CSR 70-45.010 Hearing Aid Program is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1649-1650). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits**

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Fund Board of Directors under section 50.1032, RSMo 2000, the board amends a rule as follows:

16 CSR 50-2.035 Payment of Benefits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2005 (30 MoReg 1742-1743). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities I and II**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.076, RSMo 2000, the department amends a rule as follows:

19 CSR 30-86.022 Fire Safety Standards for New and Existing Residential Care Facilities I and II is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2005 (30 MoReg 1804). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

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

APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for January 23, 2006. These applications are available for public inspection at the address shown below:

Date Filed

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

11/10/05

#3847 HS: Alliance Imaging, Inc.
Kansas City, Blue Springs, Lexington, Butler, Sweet Springs
(Saline, Lafayette, Bates, and Jackson Counties)
\$1,800,000, Replace mobile positron emission tomography
(PET) scanner and add two sites to mobile route

#3822 FS: Cape Radiology Group I, L.L.C.
Cape Girardeau (Cape Girardeau County)
\$1,510,000, Acquire magnetic resonance imaging (MRI) unit

#3848 HS: SSM St. Joseph Health Center
St. Charles (St. Charles County)
\$1,777,259, Replace interventional radiology lab

#3849 HS: SSM St. Joseph Hospital West
Lake St. Louis (St. Charles County)
\$2,367,395, Replace MRI

#3824 RS: Lincoln Community Nursing Home
Lincoln (Benton County)
\$1,000,760, Establish 14-bed residential care facility II

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by December 14, 2005. All written requests and comments should be sent to:

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

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

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

EXPEDITED APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the Expedited applications listed below. A decision is tentatively scheduled for December 22, 2005. These applications are available for public inspection at the address shown below:

Date Filed

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

11/10/05

#3850 HS: SSM St. Mary's Health Center
St. Louis (St. Louis County)
\$2,902,000, Replace linear accelerator

#3841 NS: Woodlands of Maryland Heights
Maryland Heights (St. Louis County)
\$1,454,848, Renovate/modernize LTC facility

#3825 RS: Lincoln Community Nursing Home
Lincoln (Benton County)
\$1,946,255, Renovate/modernize LTC facility

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by December 14, 2005. All written requests and comments should be sent to:

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

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

Title 20—DEPARTMENT OF INSURANCE

IN ADDITION

Pursuant to section 537.610, RSMo regarding the Sovereign Immunity Limits for Missouri Public Entities, the Director of Insurance is required to calculate the new limitations on awards for liability.

Using the Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 537.610, RSMo the two new Sovereign Immunity Limits effective January 1, 2006 were established by the following calculations:

Index Based on 2000 Dollars	
Third Quarter 2005 IPD Index	111.83
Third Quarter 2004 IPD Index	108.47

$$\text{New 2006 Limit} = 2005 \text{ Limit} \times (2005 \text{ Index} / 2004 \text{ Index})$$

For all claims arising out of a single accident or occurrence:
$$2,303,326 = 2,234,121 \times (1.1183 / 1.0847)$$

For any one person in a single accident or occurrence:
$$345,499 = 335,118 \times (1.1183 / 1.0847)$$