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SALUS POPULI SUPREMA LEX ESTO

*“The welfare of the people shall be the supreme law.”*



ROBIN CARNAHAN  
SECRETARY OF STATE

MISSOURI  
REGISTER

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

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## HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

**R**ules 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.

**R**ules 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.

**A**ll 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 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

### Division 600—Statistical Reporting Chapter 1—Reports Other Than Annual Statement and Credit Insurance

#### EMERGENCY RULE

#### 20 CSR 600-1.030 Medical Malpractice Statistical Data Reporting

*PURPOSE:* This rule establishes reporting requirements for medical professional liability insurers pursuant to 383.105–383.124, RSMo Supp. 2006.

*EMERGENCY STATEMENT:* This emergency rule is necessary to preserve the public welfare of Missouri citizens by ensuring that medical professional liability insurers comply with and understand their obligations established by sections 383.105–383.125, RSMo. Section 383.106.2, RSMo Supp. 2006 requires that the department establish risk reporting categories and regulations for the reporting of base rates and premiums charged in those established risk reporting categories prior to May 30, 2007. As a result, the Missouri Department of Insurance, Financial Institutions and Professional Registration finds an immediate danger to the public welfare and a compelling governmental interest which requires emergency action. The scope of

this emergency rule is limited to the conditions creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. In developing this emergency rule, an actuarial firm and insurance industry representatives were consulted on multiple occasions between August 2006 and May 2007. Initially, the department consulted interested parties regarding data elements and insurers' current information systems capabilities. A draft of the rules and forms was distributed to key insurers in November 2006. The department met with two (2) insurers in December 2006 to discuss the proposed drafts. Between January 2007 and May 2007, the department corresponded with the American Academy of Actuaries to discuss how to best implement the statutory mandate while minimizing the industry impact. In February 2007, the department hired a new actuary to assist with the implementation of this rule. After multiple consultations and several drafts, the department developed the reporting forms, codebook and risk reporting categories which are incorporated by reference in this emergency rule. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. A proposed rule, which covers this material, is published in this issue of the *Missouri Register*. This emergency rule was filed May 18, 2007, effective May 29, 2007, expires February 28, 2008.

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

(1) Definitions. When used in this regulation—

(A) "Base rate" means the rate designed to reflect the average aggregate experience of a particular market, prior to adjustment for individual risk characteristics resulting from application of any rating plan.

(B) "Base rate data" means the premium and rate information that insurers are required to report pursuant to section 383.106.2, RSMo Supp. 2006.

(C) "Health care provider" means health care provider as defined in section 383.100.2, RSMo Supp. 2006.

(D) "Medical malpractice insurance" means medical malpractice insurance as defined in section 383.100.3, RSMo Supp. 2006.

(E) "Insurer" means insurer as defined in section 383.105.3, RSMo Supp. 2006, and includes all providers of medical malpractice coverage to any health care provider for claims arising from the practice of medicine in the state of Missouri.

(2) Risk Reporting Categories to Be Used by Insurers.

(A) The director shall establish prior to May 30, 2007 appropriate categories and risk classifications for the reporting of data under this section. These categories and risk classifications shall include, but not be limited to: rating territory and county of practice, policy and coverage types, policy limits, deductibles, practitioner risk or rating classification, medical specialty classifications, and other such categories as may be necessary to meaningfully evaluate the medical malpractice insurance market.

(B) Risk Reporting Categories (Form MM7), Revised May 2007, is published by the department.

(3) Base Rate Data.

(A) On September 30, 2007, each insurer shall file with the department a Base Rate Data report (Form MM5).

(B) Upon any change of base rates after September 30, 2007, and before use of the changed base rates, insurers shall file a Base Rate

Data report (Form MM5) with the department. Reports shall be made in a form and manner prescribed by the director.

(4) Data Filing, Verification and Integrity Standards.

(A) Any insurer that fails to timely file complete and accurate reports for all data required by this regulation will be subject to penalties appropriate for a level 2 violation as established in section 383.124, RSMo Supp. 2006. Insurers may also be subject to additional penalties arising from section 374.215, RSMo 2000.

(B) All data submissions must be completed in full. Partial or incomplete submissions will be considered a failure to file for the purposes of this regulation, and may subject the insurer to penalties for failure to file.

(C) Insurers must develop a non-arbitrary and reasonable methodology to accurately report all data elements, and make such methodology available to the department upon request.

(D) The department shall periodically gather such information from insurers as may be reasonably necessary to ensure that data reported to the department under this regulation is accurate, complete, valid, and correctly represents the costs and expenses associated with the claims reported, premiums charged, and practitioners insured. Such information may include, but is not limited to, coding schema or classifications relevant to required reporting categories, information related to the derivation of various amounts reported, or information related to the completeness, accuracy, and integrity of reported data.

(5) Form and Risk Reporting Categories. The following form and risk reporting categories have been adopted and approved for filing with the department in accordance with this rule and are incorporated by reference:

(A) Base Rate Data (Form MM5), Revised May 2007, or any form which substantially comports with the specified form;

(B) Risk Reporting Categories (Form MM7), Revised May 2007. The above form and risk reporting categories are published by the Missouri Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102. The forms do not include any amendments or additions. The forms are available at the department's office in Jefferson City, Missouri, on the department website, [www.insurance.mo.gov/industry/forms/index.htm](http://www.insurance.mo.gov/industry/forms/index.htm), or by mailing a written request to the Missouri Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

(6) Data collected pursuant to this rule will be used by the director to establish and publish a market rate charged by insurers in accordance with section 383.107, RSMo Supp. 2006. The department will maintain data confidentiality to the extent required by state and federal law.

*AUTHORITY: section 383.206.6, RSMo Supp. 2006. Emergency rule filed May 18, 2007, effective May 29, 2007, expires Feb. 28, 2008. A proposed rule covering this material is published in this issue of the Missouri Register.*

**U**nder 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."

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

**A**n 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.

**I**f 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*.

**A**n 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.

**I**f 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.

motorcycle or all-terrain vehicle manufacturer, distributor or representative pursuant to a franchise agreement, the petition shall include a filing fee equal to the filing fee of the circuit court of Cole County. The provisions of this subsection (2)(D) of this regulation shall expire on *[November 30, 2007]* **January 1, 2009**.

*AUTHORITY: sections 621.035, RSMo 2000 and 621.053 and 621.198, RSMo Supp. [2005] 2006. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed May 31, 2007.*

*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 cost private entities approximately one thousand fifty dollars (\$1,050) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, John J. Kopp, Presiding Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on August 1, 2007. No public hearing is scheduled.*

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure for All Contested Cases Under  
Statutory Jurisdiction**

**PROPOSED AMENDMENT**

**1 CSR 15-3.350 Complaints.** The commission is amending subsection (2)(D).

*PURPOSE: This amendment maintains the filing fee authorized under section 621.053, RSMo Supp. 2006.*

(2) Specific Cases. In addition to the other requirements of this rule—

(D) In a case arising pursuant to Chapter 407, RSMo, including cases relating to the protest of an action taken by a motor vehicle,

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	1 CSR 15-3.350, Complaints.
Type of Rulemaking:	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Ten	Vehicle Franchisees	\$1,050
Zero	Tobacco Sellers and Distributors	\$ 0

**II. WORKSHEET**

Persons paying filing fee		x filing fee = fiscal impact
Vehicle Franchisees	10	
+ Tobacco Sellers and Distributors	0	
Total	10 x \$105	= \$1,050

**IV. ASSUMPTIONS**

In 2001, the General Assembly authorized the Administrative Hearing Commission (AHC) to set, by rule, a filing fee equal to the filing fee of the circuit court of Cole County for cases arising pursuant to chapter 407, RSMo. Section 621.035, RSMo Supp. 2006. Two types of cases arise pursuant to chapter 407, RSMo.

The first type is an appeal by a motor vehicle, motorcycle, or all-terrain vehicle franchisee who is the subject of certain actions by a franchisor. Since 2001, the AHC has not received more than four such cases in any six-month period. This fiscal note generously assumes ten cases in the 13-month life of the rule. The filing fee of the circuit court of Cole County is \$105. At that rate, ten cases will cost all entities filing such cases \$1,050 in the aggregate over the life of the rule.

The second type is an appeal by persons adversely affected by a decision under section 407.931, related to unlawful practices in the provision of tobacco. The AHC has never received such an appeal. This fiscal note assumes zero cases over the 13-month life of the rule, and therefore projects \$0 fiscal impact to such entities in the aggregate.



**Title 2—DEPARTMENT OF AGRICULTURE  
Division 90—Weights and Measures  
Chapter 30—Petroleum Inspection**

RSMo shall be deemed guilty of a class A misdemeanor and may be prosecuted in any county in which a violation occurs.

**PROPOSED RULE**

**2 CSR 90-30.085 Financial Responsibility for Manufacturers, Installers and Repairers of Petroleum Equipment**

*PURPOSE: This rule implements the provisions of Senate Bill 1020, enacted in 2006 by the second regular session of the 93rd General Assembly.*

(1) For the purposes of this rule, the following definitions shall apply:

(A) "Fuel storage tank system" means an aboveground or underground storage tank used to store petroleum or petroleum-blended fuel, and all connected piping, ancillary equipment and containment systems located beneath the fire impact valve;

(B) "Person" means a partnership, corporation, company, firm, society or association; and

(C) "Repair" means any modification to, or replacement of parts on, the fuel storage tank system.

(2) Any person who manufactures an aboveground or underground fuel storage tank for use in Missouri, or piping for such tank; or any person who installs or repairs all or part of a fuel storage tank system in Missouri shall annually apply for a registration from the Department of Agriculture's Division of Weights and Measures on an Application for Annual Registration form included herein by the department. At the time of application, such person shall provide evidence of financial responsibility for the costs of corrective action directly related to releases caused by improper manufacture, installation, or repair of such tank or piping. This evidence shall:

(A) Demonstrate that the financial responsibility mechanism provides coverage of at least one (1) million dollars per occurrence and two (2) million dollars annual aggregate;

(B) Clearly identify who is insured;

(C) Specify the retroactive date of such coverage; and

(D) Specify the term of such coverage.

(3) This rule shall not apply to a person who installs or repairs tanks and/or piping owned or operated by such person.

(4) Enforcement Authority.

(A) Any person who is found, upon investigation by the Department of Agriculture, to be in possible violation of this rule shall be notified by certified mail of the facts constituting such violation and shall be afforded an opportunity to explain such facts at an informal hearing to be conducted within fourteen (14) days of such notification. In the event that such person fails to timely respond to such notification or upon unsuccessful resolution of any issues relating to the alleged violation, such person may be summoned to a formal administrative hearing before a hearing officer conducted in conformance with Chapter 536, RSMo.

(B) If a hearing officer finds a person has violated the requirements of this rule, he/she may:

1. Order such person to immediately cease and desist the manufacture, installation or repair of petroleum storage tanks;

2. Rescind such person's registration;

3. Order payment of a penalty of not more than five hundred dollars (\$500) per violation; and/or

4. Order payment of a penalty of up to five hundred dollars (\$500) for each day such violation continues.

(C) A party to such hearing who is aggrieved by a determination of the hearing officer may appeal to the circuit court of Cole County, in accordance with Chapter 536, RSMo.

(D) Any person found in violation of this rule or section 414.035,



Missouri Department of Agriculture  
Division of Weights and Measures  
PO Box 630  
Jefferson City, MO 65102  
Phone: 573-751-4278

**APPLICATION FOR ANNUAL REGISTRATION**

In accordance with Section 414.035, RSMo: Any person who manufactures an aboveground or underground fuel storage tank for use in this state, or piping for such tank, or who installs or repairs a fuel storage tank system in this state, must register with the Department and provide evidence of financial responsibility for the costs of corrective action directly related to releases caused by improper manufacture, installation, or repair of such. This requirement does not apply to the installation or repair of fuel storage tank systems by the tank owner or operator.

**Please complete this application and submit it with an insurance policy, certificate of insurance, or other document that:**

- Demonstrates coverage of at least one million dollars (\$1 million) per occurrence and two million dollars (\$2 million) annual aggregate for pollution liability,
- Clearly identifies who is insured, AND
- Specifies the current term of coverage and the retroactive date of coverage.

**Date of Application**

**Company Name**

**Address**

**City**

**State**

**Zip**

**Telephone**

**Fax**

**E-Mail**

**Summary of Services Performed:**

I hereby certify that the above-named company and its employees are familiar with the requirements of the Department of Agriculture, Division of Weights and Measures and with appropriate industry codes, standards, and recommended practices applicable to the petroleum equipment manufactured, installed, and/or repaired by the above-named company. Further, I certify that the Division of Weights and Measures will be notified if the insurance policy described herein should be canceled prior to its normal expiration date.

**Signed**

**Date**

**Printed Name**

**Title**

*AUTHORITY: section 414.035, RSMo Supp. 2006. Original rule filed May 25, 2007.*

*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 cost private entities seven thousand five hundred dollars (\$7,500) annually 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 Agriculture, Kerry Kaullen, Program Administrator, PO Box 630, Jefferson City, MO 65109, by fax at (573) 751-0281 or via email at [kerry.kaullen@mda.mo.gov](mailto:kerry.kaullen@mda.mo.gov). 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

## PRIVATE COST

## I. RULE NUMBER

Rule Number and Name:	2 CSR 90-30.085 Financial Responsibility for Manufacturers, Installers and Repairers of Petroleum Equipment
Type of Rulemaking:	Proposed

## II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
25	Manufacturers	\$2,500.00
35	Installers	\$3,500.00
15	Repairers	\$1,500.00

## III. WORKSHEET

75 companies @ \$100.00 = \$7,500.00 per year

## IV. ASSUMPTIONS

It will take approximately two hours (\$50.00 per hour) for each company to contact insurance carrier, verify coverage and prepare paperwork.

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

**PROPOSED RESCISSION**

**12 CSR 10-23.170 Registration of Corporation Motor Vehicles/Emission System Inspection Areas.** The director of the Department of Revenue is charged with the responsibility to determine that every application for registration of a motor vehicle contains all the information required by law. It is required in certain areas of the state, as part of the annual motor vehicle inspection certificate required for registration, that motor vehicles be tested to determine that the emission system is functioning within specified standards. Certain corporations based within the emission system inspection areas operate motor vehicles which are situated outside of the emission system inspection areas. This rule provided that the emission system inspection requirement did not apply to corporate motor vehicles based and operated exclusively outside of emission system areas.

*PURPOSE: This rule is being rescinded as it has been determined that recent changes to existing legislation eliminate the need for clarification through rule.*

*AUTHORITY: sections 137.095, 301.025, 301.130 and 307.366, RSMo 1986. Original rule filed Jan. 8, 1985, effective June 13, 1985. Rescinded: Filed May 23, 2007.*

*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. 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 23—Motor Vehicle**

**PROPOSED RESCISSION**

**12 CSR 10-23.220 Motor Vehicle Fee and Tax Refund Requests.** This rule clarified when a request for refund of motor vehicle fees and taxes would be approved or denied.

*PURPOSE: This rule is being rescinded as it has been determined that changes to existing legislation eliminate the need for clarification through rule.*

*AUTHORITY: section 144.270, RSMo 1986. Original rule filed March 3, 1986, effective June 28, 1986. Amended: Filed Nov. 18, 1986, effective March 12, 1987. Rescinded: Filed May 23, 2007.*

*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. 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 23—Motor Vehicle**

**PROPOSED RESCISSION**

**12 CSR 10-23.285 Titling of Motor Vehicles Sold Without Safety Inspections.** This rule clarified when an original Missouri certificate of title versus a salvage certificate of title should have been issued to owners of vehicles purchased for junk, salvage or for the purpose of rebuilding in accordance with section 307.380, RSMo.

*PURPOSE: This rule is being rescinded as it has been determined that recent changes to existing legislation eliminate the need for clarification through rule.*

*AUTHORITY: section 307.380, RSMo Supp. 1987. Original rule filed April 21, 1986, effective Aug. 11, 1986. Rescinded: Filed May 23, 2007.*

*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. 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 23—Motor Vehicle**

**PROPOSED AMENDMENT**

**12 CSR 10-23.295 Witnessing Proof of [Payment for] Federal Heavy Vehicle Use Tax [or That the Tax is Not Owing] Payment or Exemption.** The director proposes to amend the title of the rule, the purpose statement, delete sections (1), (2), (3), (5) and (6), create new sections (2) and (3), amend section (4) and the authority section.

*PURPOSE: This proposed amendment streamlines existing language, eliminates provisions exceeding the scope of the law, and lists which vehicles are exempt from submitting proof of tax payment or tax exemption.*

*PURPOSE: Section 301.025[.2], RSMo prohibits the director of revenue from registering any vehicle subject to Federal Heavy Vehicle*

Use Tax unless the applicant submits proof of payment or [proof that the tax is not owing] exemption. This rule clarifies what constitutes proof of payment [or that the tax is not owing] or exemption of the Federal Heavy Vehicle Use Tax imposed by Section 4481 of the Internal Revenue Code [of 1954].

[(1) The federal heavy vehicle use tax is imposed on highway motor vehicles which (together with semi-trailers and trailers customarily used in connection with highway motor vehicles) have a taxable gross weight of at least fifty-five thousand pounds (55,000 lbs.). Effective July 1, 1985 any single or straight truck having two (2) or three (3) axles is subject to the heavy vehicle use tax if the vehicle is licensed for fifty-five thousand pounds (55,000 lbs.) or above.

(2) Vehicles not used for highway transportation (such as farm tractors, road graders, bulldozers or specialized motor equipment used for nontransportational functions) are not subject to the tax.

(3) Vehicles, which are not used for highway transportation and are licensed for fifty-five thousand pounds (55,000 lbs.) or above may be exempt from the payment of these taxes provided the owner(s) files a FORM 2290 to claim a suspension of the tax liability. The owner may claim a tax suspension for a motor vehicle which is considered taxable during a tax period if the vehicle is used on the public highway for five thousand (5000) or fewer miles; or in the case of agricultural vehicles, the vehicle is used for seven thousand five hundred (7500) or fewer miles.]

[[4]] (1) [Beginning October 1, 1985 a]All applications (new or renewal) for a [local or beyond local] commercial motor vehicle registration with a licensed gross weight of sixty thousand ten pounds [(60,000 lbs.)] (60,010 lbs.) or above [license plate] must be accompanied by proof that federal heavy vehicle use tax has been paid on the vehicle or that the [tax is suspended before a license plate may be issued or renewed. The applicant must provide one (1) or more of the following documents as proof of payment of this tax] vehicle is tax exempt. Acceptable proof includes:

(A) Schedule 1 to the federal Heavy Highway Vehicle Use Tax Return, Form 2290 [as proof of payment. Schedule 1 to Form 2290 must be] appropriately stamped [(receipted)] paid or received by the Internal Revenue Service[.]; or

[1. The Heavy Vehicle Use Tax Return, Form 2290, is the form used to figure and pay the heavy vehicle use tax or to claim a tax suspension.

2. Schedule 1 to Form 2290 is the form used to identify the vehicle identification number (VIN) and vehicle tax category as reported on the Form 2290;]

(B) [If the applicant has not received Schedule 1 to Form 2290 appropriately stamped (receipted) by the Internal Revenue Service prior to making application for registration, but has received his/her cancelled check payable to the Internal Revenue Service for the heavy vehicle use tax, s/he may present the following as proof of payment:] A copy of the front and back of the applicant's cancelled check[;] made payable to the Internal Revenue Service for the heavy vehicle use tax and the applicant's copy of Schedule 1 to Form 2290[;].

[(C) If a receipted or nonreceipted Schedule 1 shows tax due on twenty-one (21) vehicles or less or tax suspended on nine (9) vehicles or less and the taxpayer's name on the Schedule 1 is one of the names in which the vehicles are sought to be registered, each of the vehicles identified on the Schedule 1 must be identified by the VIN before the schedule may be accepted as valid proof of payment. If, on the other hand, the receipted or nonreceipted Schedule 1

shows tax due on more than twenty-one (21) vehicles or tax suspended on more than nine (9) vehicles and the taxpayer's name on the Schedule 1 is one of the names in which the vehicles are sought to be registered, the Schedule 1 shall be accepted as proof of payment in support of the registration of a number of vehicles equal to or less than the total and a list of the vehicles (or their VINs) is not required as part of the proof of payment; and

(D) If a receipted or nonreceipted Schedule 1 which does not include a list of VINs is submitted as proof of payment for the registration of one (1) or more highway motor vehicles and the name of the taxpayer appearing on the Schedule 1 is not one of the names in which the vehicles are sought to be registered, then the Schedule 1 shall be accepted as proof of payment in support of the registration of a number of vehicles equal to or less than the total number of vehicles on the Schedule 1 provided the Schedule 1 is accompanied by a written statement executed by the taxpayer. The written statement shall contain the VINs of the vehicles sought to be registered and a statement that the Federal Heavy Vehicle Use Tax (as detailed in 4481(a) of 26 CFR part 41) has been paid with respect to the vehicles for the taxable period. The statement must be signed by the taxpayer whose name appears on the Schedule 1.

(5) An applicant requesting a commercial motor vehicle license for a newly acquired vehicle is not required to provide proof of payment of the federal heavy vehicle use tax if s/he presents a notarized bill of sale or properly assigned ownership document indicating the vehicle was purchased no more than sixty (60) days prior to the date s/he submitted his/her application for license plates. If the applications for license plates is submitted after the sixty (60)-day period, s/he must submit proof that federal heavy vehicle use tax has been paid or that the tax is suspended before license plates may be issued.]

[(6) All branch and fee agent license offices must verify proof of payment of federal heavy vehicle use tax or that the tax has been suspended. The license office shall validate or stamp Schedule 1 to Form 2290 each time a license plate is issued for a vehicle described on the form.]

(2) Proof of tax payment or tax exemption is not required for—  
(A) Federal, state, city, and county owned vehicles;  
(B) Vehicles owned by the American National Red Cross, a nonprofit volunteer fire department, ambulance association, or rescue squad; or  
(C) Vehicles purchased no more than sixty (60) days prior to the date of application for registration.

(3) The Heavy Highway Vehicle Use Tax Return (FORM 2290) and the Schedule 1 to FORM 2290, may be obtained at [www.irs.gov](http://www.irs.gov), or by phone at 1 (800) 829-3676, or at many Internal Revenue Service offices, post offices, and libraries.

*AUTHORITY:* section 301.025[.2], RSMo Supp. [1987] 2006. Original rule filed May 27, 1986, effective Aug. 25, 1986. Amended: Filed June 1, 2007.

*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 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 23—Motor Vehicle**

**PROPOSED RESCISSION**

**12 CSR 10-23.415 Sample License Plates.** This rule recognized the availability of sample Missouri license plates and described the requirements to obtain them.

*PURPOSE: This rule is being rescinded as the department no longer issues sample plates.*

*AUTHORITY: sections 301.130 and 301.449, RSMo Supp. 1990. Original rule filed Nov. 8, 1990, effective April 29, 1991. Rescinded: Filed May 23, 2007.*

*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. 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 23—Motor Vehicle**

**PROPOSED RESCISSION**

**12 CSR 10-23.460 Issuance of Biennial Disabled Person Placard.** This rule provided for issuing biennial disabled placards on a staggered basis to equalize the Department of Revenue's workload.

*PURPOSE: This rule is being rescinded as it has been determined that the completion of the staggered implementation, and the elimination of fees for permanent placards eliminates the need for clarification through rule.*

*AUTHORITY: sections 301.003, RSMo 2000 and 301.142, RSMo Supp. 2004. Original rule filed Nov. 13, 2003, effective May 30, 2004. Amended: Filed Dec. 14, 2004, effective July 30, 2005. Rescinded: Filed May 23, 2007.*

*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. 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 40—Family Support Division  
Chapter 2—Income Maintenance**

**PROPOSED AMENDMENT**

**13 CSR 40-2.370 Requirement That All Applicants/Recipients for the Payment of Temporary Assistance Shall Complete an Assessment and May Be Required To Complete [a Self-Sufficiency Pact] an Individual Employment Plan.** The division is amending the title, Purpose, and sections (1)–(7).

*PURPOSE: This amendment requires that all applicants for payment of Temporary Assistance shall complete an assessment and shall be required to complete an individual responsibility plan which is termed an Individual Employment Plan (IEP) prior to approval of the Temporary Assistance application.*

*PURPOSE: This rule requires that all applicants/recipients for the payment of Temporary Assistance shall complete an assessment and may be required to complete an individual responsibility plan which is termed [a self-sufficiency pact] an Individual Employment Plan (IEP).*

(1) Initial Assessment [and Self-Sufficiency Pact].

(A) For the purpose of the administration of the Temporary Assistance Program, the [Division of Family Services] **Family Support Division** shall make an initial assessment of the skills, prior work experience, and employability of each applicant/recipient of assistance under the program who is the head of household or second parent and—

1. Has attained eighteen (18) years of age; or
2. Has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

(B) The assessment described in subsection (1)(A) shall be completed [within thirty (30) days after the individual is determined to be eligible for such assistance] **at application.**

(C) On the basis of the assessment made under subsection (1)(A) with respect to an individual, the [Division of Family Services, in negotiation with the individual, may develop a self-sufficiency pact (SSP) for the individual, which—] **Family Support Division shall refer the applicant to the Division of Workforce Development (DWD) or its designee to negotiate an Individual Employment Plan (IEP) with the individual.**

(D) **The IEP must be developed prior to approval of the application.**

(2) **Individual Employment Plan.**

(A) **The Division of Workforce Development or its designee shall develop with the individual an IEP which:**

1. Sets forth an employment goal for the individual and a plan for moving the individual into employment as soon as possible and [may] will include a requirement that the individual [attend parenting and money management classes] **participate in an allowable/countable work activity for the minimum required hours outlined in the state policy;**

2. *Sets forth the obligations of the individual, which may include a requirement that the individual keep school age children of the individual in school and immunize children;*

[3.]2. To the greatest extent possible is designed to move the individual into whatever employment the individual is capable of handling as quickly as possible by **establishing short and long-term educational/occupational goals;**

[4. Describes the services the state will provide the individual so that the individual will be able to obtain and keep employment, and describe the job counseling and other services that will be provided by the state; and]

[5.]3. [May require the individual to undergo appropriate substance abuse treatment.] **Assesses the individual's barriers that may hinder the individual's ability to seek and/or obtain employment. Those barriers may include (but are not limited to): substance abuse, legal issues, child care, healthcare, transportation, and education;**

[(2) In-Depth Assessment and Self-Sufficiency Pact.

(A) In some instances, the division may require an in-depth assessment be conducted to assist in developing an SSP. For this SSP, participants shall include:

1. A representative of the Division of Family Services, who shall be a case manager or other specifically designated, trained and qualified person authorized to negotiate the SSP and follow-up with the family and responsible state agencies to ensure that the SSP is reviewed at least annually and, if necessary, shall be revised (including extension) as further assessments, experience, circumstances and resources require; and

2. The recipient and, if appropriate, another family member, assessment personnel or an individual interested in the family's welfare.

(B) The SSP under section (2) shall—

1. Contain the provisions in subsection (1)(C) above;

2. Be in writing and establish mutual state and family member obligations as part of a plan containing goals, objectives and time lines tailored to the needs of the family and leading to self-sufficiency;]

[3.]4. Identify available support services, such as subsidized child care, medical services and transportation benefits [during a transition period], to help ensure that the family will **become self-sustaining and will** be less likely to return to public assistance;

[4. Contain a parent and child development plan to develop the skills and knowledge of adults in their role as parents to their children and partners of their spouses. Such SSP shall include school participation records; and]

5. Address circumstances creating barriers to self-sufficiency and may be updated and adjusted to identify and address the removal of these barriers[.]; and

**6. Ascertain the skills of the individual that will expand the individual's opportunity to obtain employment.**

[(3) The Division of Family Services shall establish a training program for self-sufficiency pact case managers which shall include but not be limited to:

(A) Knowledge of public and private programs available to assist recipients to achieve self-sufficiency;

(B) Skills in facilitating recipient access to public and private programs; and

(C) Skills in motivating and in observing, listening and communicating.]

[(4)](3) The [Division of Family Services] **Family Support Division** shall encourage families [enrolled in the family self-sufficiency program] **who have an IEP** to make full use of the federal earned income tax credit.

[(5) An individual may request a review by the director of the Division of Family Services, or the director's designee, of any provision of the SSP that the recipient objects to as inappropriate. After receiving informal review, a recipient

who is still aggrieved may appeal the results of the informal review pursuant to the provisions of section 208.080, RSMo.]

**(4) The application for Temporary Assistance benefits will not be approved without verification that the applicant completed the IEP, unless good cause is established.**

[(6)](5) If an individual in a family fails to cooperate in developing the [self-sufficiency pact or,] IEP without good cause, [fails to comply with the SSP, the division shall reduce the amount of temporary assistance otherwise payable to the family, pro rata.] **the division shall reject the Temporary Assistance application.**

(A) Good cause for not complying with the [terms of a self-sufficiency pact] **development of an IEP** are:

1. Court-required appearance or incarceration;

2. Emergency family crisis which renders participation unreasonable;

3. Breakdown in transportation arrangements with no readily accessible alternate means of transportation;

4. Breakdown in the child care arrangement or availability of child care not suited for special needs of the child for whom it is intended; [or]

5. Lack of identified social services necessary for participation and set forth in the [self-sufficiency pact] IEP referenced in this rule[.]; or

**6. DWD is not able to provide services within thirty (30) days.**

[(7)](6) The [Division of Family Services] **Family Support Division** shall make efforts to coordinate with the Departments of Health and Senior Services, Mental Health, Elementary and Secondary Education, Labor and Industrial Relations, and Economic Development to develop or make available existing programs to individuals [enrolled in SSPs] **with an IEP.**

*AUTHORITY: sections 207.020, RSMo 2000 and 208.040.5, RSMo [1994] Supp. 2006. Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998. Amended: Filed June 1, 2007.*

*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, Family Support Division, 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. No public hearing is scheduled.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 600—Statistical Reporting  
Chapter 1—Reports Other Than Annual Statement and  
Credit Insurance**

**PROPOSED RULE**

**20 CSR 600-1.030 Medical Malpractice Statistical Data Reporting**



*PURPOSE: This rule establishes reporting requirements for medical professional liability insurers pursuant to sections 383.105–383.124, RSMo Supp. 2006.*

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

(1) Definitions. When used in this regulation—

(A) “Annual claim reserve data” means annual filing reflecting changes in reserves for all pending claims;

(B) “Annual premium, exposure, and loss data” means annual aggregate data that insurers are required to report under section 383.106.1, RSMo Supp. 2006;

(C) “Base rate” means the rate designed to reflect the average aggregate experience of a particular market, prior to adjustment for individual risk characteristics resulting from application of any rating plan;

(D) “Base rate data” means the premium and rate information that insurers are required to report pursuant to section 383.106.2, RSMo Supp. 2006;

(E) “Health care provider” means health care provider as defined in section 383.100.2, RSMo Supp. 2006;

(F) “Median rate data” means the premium, assessments and rate information that an insurer is required to report pursuant to sections 383.106.4 and 383.106.7, RSMo Supp. 2006;

(G) “Medical malpractice insurance” means medical malpractice insurance as defined in section 383.100.3, RSMo Supp. 2006;

(H) “Insurer” means insurer as defined in section 383.105.3, RSMo Supp. 2006, and includes all providers of medical malpractice coverage to any health care provider for claims arising from the practice of medicine in the state of Missouri; and

(I) “Quarterly claims data” means open and closed claims data required to be filed pursuant to section 383.105, RSMo Supp. 2006.

(2) Quarterly Claims Data.

(A) All insurers shall electronically file medical malpractice quarterly claims data in a manner and form prescribed by the director. The first claims filing is due January 31, 2008 for claims opened or closed in the fourth quarter of 2007.

(B) Each claim shall be filed with the department once when opened, and once when closed.

(C) Claims must be filed with the department not later than the last day of the month following the end of the quarter the claim was opened or closed, as follows:

Claims Opened or Closed	Filing Date
First quarter	April 30
Second quarter	August 31
Third quarter	November 30
Fourth quarter	January 31

(D) Any insurer subject to this regulation that has not opened or closed claims during a reporting period shall file with the department, in lieu of quarterly claims data, an affidavit, signed by a company officer, attesting that no claims were opened or closed by the company.

(E) The Quarterly Data Reporting Codebook (Form MM6), Revised May 2007, is published by the department and the codes shall be used when filing claims with the department as required by this subsection.

(3) Risk Reporting Categories to be Used by Insurers.

(A) The director shall establish prior to May 30, 2007 appropriate categories and risk classifications for the reporting of data under this section. These categories and risk classifications shall include, but not be limited to: rating territory and county of practice, policy and coverage types, policy limits, deductibles, practitioner risk or rating classification, medical specialty classifications, and other such categories as may be necessary to meaningfully evaluate the medical malpractice insurance market.

(B) Risk Reporting Categories (Form MM7), Revised May 2007, is published by the department and the categories shall be used when completing Forms MM1, MM2, MM3, MM4 and MM5.

(4) Annual Premium, Exposure, and Loss Data.

(A) By March 31, 2008, each insurer shall electronically file with the department an Annual Premium and Exposure rate making report (Form MM1), and Annual Claim Inventory report (Form MM2) relating to loss data for each year end period from 1995 to 2007.

(B) By March 31, 2008, each insurer shall electronically file with the department an Annual Written Exposure report (Form MM3).

(C) Beginning March 31, 2009, and annually thereafter, each insurer shall file an Annual Premium and Exposure rate making report (Form MM1), an Annual Claim Inventory report (Form MM2) and an Annual Written Exposure report (Form MM3) relating to the prior calendar year. Filings shall be made in a form and manner prescribed by the director. Premium and exposure data elements to be reported shall include, but not be limited to, written and earned premium and earned exposure. Loss information shall include, but not limited to, an inventory of claims.

(5) Median Rate and Assessment Data. Beginning June 1, 2008, and annually thereafter, each insurer shall file a Median Rate and Assessment Data report (Form MM4) with the department. Filings shall be made in a form and manner prescribed by the director.

(6) Base Rate Data.

(A) On September 30, 2007, each insurer shall file with the department a Base Rate Data report (Form MM5).

(B) Upon any change of base rates after September 30, 2007, and before use of the changed base rates, insurers shall file a Base Rate Data report (Form MM5) with the department. Reports shall be made in a form and manner prescribed by the director.

(7) Data Filing, Verification and Integrity Standards.

(A) Any insurer that fails to timely file complete and accurate reports for all data required by this regulation will be subject to penalties appropriate for a level 2 violation as established in section 383.124, RSMo Supp. 2006. Insurers may also be subject to additional penalties arising from section 374.215, RSMo 2000.

(B) All data submissions must be completed in full. Partial or incomplete submissions will be considered a failure to file for the purposes of this regulation, and may subject the insurer to penalties for failure to file.

(C) Insurers must develop a non-arbitrary and reasonable methodology to accurately report all data elements, and make such methodology available to the department upon request.

(D) The department shall periodically gather such information from insurers as may be reasonably necessary to ensure that data reported to the department under this regulation is accurate, complete, valid, and correctly represents the costs and expenses associated with the claims reported, premiums charged, and practitioners insured. Such information may include, but is not limited to, coding schema or classifications relevant to required reporting categories, information related to the derivation of various amounts reported, or information related to the completeness, accuracy, and integrity of reported data.

(8) Forms, Codes and Risk Reporting Categories. The following forms, codes, and risk reporting categories have been adopted and

approved for filing with the department in accordance with this rule and are incorporated by reference.

(A) Annual Premium and Exposure (Form MM1), Revised May 2007, or any form which substantially comports with the specified form;

(B) Annual Claim Inventory (Form MM2), Revised May 2007, or any form which substantially comports with the specified form;

(C) Annual Written Exposure (Form MM3), Revised May 2007, or any form which substantially comports with the specified form;

(D) Median Rate and Assessment Data (Form MM4), Revised May 2007, or any form which substantially comports with the specified form;

(E) Base Rate Data (Form MM5), Revised May 2007, or any form which substantially comports with the specified form;

(F) Quarterly Data Reporting Codebook (Form MM6), Revised May 2007; and

(G) Risk Reporting Categories (Form MM7), Revised May 2007.

(H) The above forms, codebook and risk reporting categories are published by the Missouri Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102. The forms do not include any amendments or additions. The forms are available at the department's office in Jefferson City, Missouri, on the department website, [www.insurance.mo.gov/industry/forms/index.htm](http://www.insurance.mo.gov/industry/forms/index.htm), or by mailing a written request to the Missouri Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

(9) Data collected pursuant to this rule will be used by the director to establish and publish a market rate charged by insurers in accordance with section 383.107, RSMo Supp. 2006. The department will maintain data confidentiality to the extent required by state and federal law.

*AUTHORITY:* section 383.206.6, RSMo Supp. 2006. Emergency rule filed May 18, 2007, effective May 29, 2007, expires Feb. 28, 2008. Original rule filed May 18, 2007.

*PUBLIC COST:* This proposed rule will cost state agencies or political subdivisions \$123,563-\$223,563 annually.

*PRIVATE COST:* This proposed rule will cost private entities in excess of five hundred dollars (\$500) annually. Initial compliance will cost insurers \$9,808 per entity and ongoing compliance will cost insurers \$1,587 per entity annually. Initial compliance will cost insurers of physicians and surgeons \$14,423 per entity and ongoing compliance will cost insurers of physicians and surgeons \$2,740 per entity annually. Initial compliance will cost insurer groups and self-insureds \$2,885 per entity and \$21,673 per entity annually.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* A public hearing will be held on this proposed rule at 10:00 a.m. on August 2, 2007. The public hearing will be held at the Harry S. Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on August 2, 2007. Written statements shall be sent to Tamara A. Wallace, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

*SPECIAL NEEDS:* If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

FISCAL NOTE  
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	20 CSR 600-1.030 Medical Malpractice Statistical Data Reporting
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of compliance in the Aggregate
Department of Insurance, Financial Institutions and Professional Registration	\$123,563 annually for 1.5 FTEs  Public costs will be shared with future Proposed Rule 20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings
Department of Corrections	\$0 to \$100,000 annually  Public costs will be shared with future Proposed Rule 20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings

III. WORKSHEET

INSURANCE DEDICATED FUND	FY 2007 (10 Mo.)	FY 2008	FY 2009
<u>Income - Department of Insurance</u>			
Form filing fees	\$4,450	\$0	\$0
<u>Costs - Department of Insurance</u>			
Personal service costs (1.5 FTE)	(\$65,979)	(\$81,154)	(\$83,183)
Fringe benefits	(\$29,070)	(\$35,756)	(\$36,650)
Equipment and expense	(\$32,964)	(\$3,614)	(\$3,722)
Total Cost - Department of Insurance	(\$128,013)	(\$120,524)	(\$123,555)
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>			
	(\$123,563)	(\$120,524)	(\$123,555)

<b>CONSUMER RESTITUTION FUND</b>			
<u>Income - Department of Insurance</u>			
Enforcement proceeding/restitution funds	<u>\$0 - \$100,000</u>	<u>\$0 - \$100,000</u>	<u>\$0 - \$100,000</u>
<b>ESTIMATED NET EFFECT ON CONSUMER RESTITUTION FUND</b>	(\$123,563) – (\$23,563)	(\$120,524) – (\$20,524)	(\$123,555) – (\$23,555)

#### IV. ASSUMPTIONS

The proposed rule contains no sunset clause. Any costs imposed by the proposed rule, may, therefore, be shown only on an annual basis.

In 2006, the General Assembly passed and the Governor signed into law House Bill 1837. The Department of Insurance, Financial Institutions, and Professional Registration (DIFP) estimated for the General Assembly that the DIFP would require one full time Insurance Product Analyst II and a half-time actuary beginning in FY2007. Additionally, a one-time computer contracting of \$27,540 (\$90/hr x 306 hours) will be necessary to implement the provisions of the bill. Requirements identified include: 1) Receipt of data electronically from insurers: actual rates for defined categories; base rate information; and premium, loss, exposure and other information, 2) an database to store the rates and other information electronically, along with functionality to process the data as described in the bill language, 3) adding security to the database, 4) make the data collected per this bill available to MO insurers through PDF files and on the DIFP website, and 5) various reporting requirements. The total estimated costs for the DIFP were \$123,563.

Medical malpractice insurers will be required to re-file policy forms to conform with the cancellation provisions. There were approximately 89 insurers that have written premium for medical malpractice insurance in calendar year 2004. Insurers are required to submit a \$50 filing fee when refiling policy forms. The DIFP estimates one-time revenues to the Insurance Dedicated Fund of \$4,450 (89 insurers X \$50 filing fee).

Officials from the Department of Corrections (DOC) stated that DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY 05 average of \$39.13 per inmate per day, or an annual cost of \$14,282 per inmate) or through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender per day, or an annual cost of \$1,150 per offender). Supervision by the DOC through probation or incarceration would result in additional unknown costs to the DOC. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC. DOC submitted Legislative Fiscal Note 5239-09T to support their cost estimates.

FISCAL NOTE  
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	20 CSR 600-1.030 Medical Malpractice Statistical Data Reporting
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classifications 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:
42	Insurers	Initial Compliance: \$9,808/entity Ongoing Annual Compliance: \$1,587/entity
28	Insurers of Physicians and Surgeons	Initial Compliance: \$14,423/entity Ongoing Annual Compliance: \$2,740/entity
80	Insurer Groups and Self-Insureds	Initial Compliance: \$2,885/entity Ongoing Annual Compliance: \$21,673/entity

III. WORKSHEET – Closed Claims Data Reporting

Number and Category of Reporting Entities		
Type of Entity	Number of Entities	Premium Written, 2006
Licensed Insurers	43	\$193,345,407
Risk Retention Groups	14	\$12,215,070
Surplus Lines Companies	22	\$33,277,671
<b>Total Number of Insurers</b>	<b>79</b>	<b>\$238,838,148</b>
<b>Total Insurance Groups</b>	<b>57</b>	<b>\$238,838,148</b>
<b>Self-Insured Entities</b>	<b>23 (est.)</b>	<b>N/A</b>
<b>Total Reporting Entities Based on Insurer Groups</b>	<b>80</b>	

Costs are calculated by insurer group rather than by individual company. It is expected that significant economies of scale can be achieved by insurer groups that coordinate data storage and retrieval functions between member companies. However, actual costs may be larger to the extent that insurers fail to exploit such economies.

**Start-up (Fixed) Costs Per Entity:**

100 / hrs programming at \$65,000 per year  
 Cost per hour: \$28.85 (based on \$65,000 annual)  
 Cost per entity: (\$28.85 x 100 hr) = \$2,885  
 Total Industry Costs: (\$2,885 x 80 insurer groups and self-insureds) = \$230,800

**Variable (Continuing) Costs Per Annum:**

Total estimated number of claims, based on prior years: 1,500  
 Capturing additional information required by 20 CSR 600-1.030: est. 45 minutes per claim  
 Offsetting savings achieved by electronic filing: 15 minutes per claim  
 Net time cost per claim: 30 minutes  
 Total necessary labor time: 750 Hours  
Total annual cost: (\$28.85 x 750 hrs) = \$21,637

The number of self-insured entities is unknown, but is estimated to be 23 based on prior claims reporting. A total of 79 insurer groups reported positive medical malpractice premium in Missouri in 2006.

Insurers with positive medical malpractice premium in 2006			
NAIC Group Code	NAIC Company Code	Company of Group	Premium Written, 2006
0626		Ace LTD Group	\$3,952,212
0501		Alleghany Group	\$1,765,260
0761		Allianz Insurance Group	\$1,266,595
	11710	Allied Professionals Ins Co RRG	\$26,623
	10232	American Assoc Of Orthodontists RRG	\$112,179
0012		American International Group	\$7,036,570
1279		Arch Insurance Group	\$2,172,514
0457		Argonaut Group	\$30,500
	10717	Aspen Specialty Ins Co	\$17,920
0031		Berkshire Hathaway Group	\$17,038,903
	18767	Church Mutual Ins Co	\$343,730
0244		Cincinnati Financial Group	\$1,739,383
0218		CNA Insurance Group	\$9,929,366
	13893	Community Blood Center Exchange RRG	\$314,363
	11798	Continuing Care RRG Inc	\$51,837
	12373	Diapason Casualty RRG Inc	\$1,872,993
0831		Doctors Company Group	\$5,575,302
	12015	Emergency Medicine RRG Inc	\$271,479
	11714	Emergency Physicians Ins Co RRG	\$1,868,144
	11990	Essential RRG Inc	\$1,525,619
1120		Everest Reinsurance Holding Group	\$1,131,837
158		Fairfax Financial Group	\$5,781,770
1272		FPIC Insurance Group, Inc	\$7,084,217
	12361	Galen Ins Co	\$2,038,422
	11941	Green Hills Ins Co RRG	\$1,898
0984		HCC Insurance Holdings Group	\$4,830
	35904	Health Care Indemnity Inc	\$7,882,305
	11832	Health Care Industry Liab Recip Ins Co	\$1,963,411
0861		Hospital Services Group	\$41,345,691
2358		ISMIE Group	\$269,066
	34703	Kansas Medical Mutual Ins Co	\$2,429,333

Insurers with positive medical malpractice premium in 2006			
NAIC Group Code	NAIC Company Code	Company of Group	Premium Written, 2006
0785		Market Corp Group	\$3,190,370
	11964	Missouri Doctors Mutual Ins Co	\$4,613,024
	11582	Missouri Physicians Mutual	\$41,270,790
0361		Munich American Holding Corp	\$2,639,674
0508		National Group	\$874,213
	36072	National Guardian RRG Inc	\$1,534,818
0140		Nationwide Corp.	\$2,001
2638		NCMIC Group	\$2,537,316
	12189	Oceanus Ins Co A RRG	\$666,041
	44105	Ophthalmic Mutual Ins Co RRG	\$1,355,014
	11846	Peace Church RRG Inc	\$63,179
0775		Pharmacists Mutual Group	\$398,805
	11704	Physicians Professional Ind Assn	\$10,468,408
3504		PICA Group	\$1,588,028
	44083	Preferred Physicians Medical RRG	\$2,904,338
	36234	Preferred Professional Ins Co	\$3,362,106
2698		ProAssurance Corp Group	\$23,272,154
	12513	Professional Liability Ins Co Of America	\$3,970,894
0163		Safeco Insurance Group	\$4,265
	11712	Saint Lukes Health System RRG	\$2,739,771
0176		State Farm Group	\$82,232
	12175	Systems Protection Assurance Inc	\$911,619
0866		Western World Group	\$468,412
1129		White Mountain Insurance Group	\$805,938
0098		WR Berkley Corp	\$806,588
0212		Zurich Insurance Group	\$1,463,878

#### IV. ASSUMPTIONS – Closed Claims Data Reporting

20 CSR 600-1.030 does not create a new reporting requirement de novo. Rather, the proposed rule supplements existing reporting with several new variables. The additions fall into two categories:

1. Information about the policy under which a claim is made, and
2. variables that capture information about the origin and nature the claim, focusing on the nature of the injury and the alleged error or omission. The new taxonomies are derived from the National Practitioner Databank (NPDB) and ICD-9 and ICD-10 codes.

1. Costs are estimated with respect to modifying an existing reporting requirement rather than initiating a new reporting requirement. Some entities fail to file under current requirements. These entities will incur significantly higher fixed or start-up costs than is indicated in the following estimates. These additional start-up costs are excluded since such costs are not strictly associated with any additional reporting requirement of 20 CSR 600-1.030.

2. Reporting entities currently possess the information necessary to satisfy 20 CSR 600-1.030. Policy detail, such as types of coverage and policy limits, are the fundamental bits of information necessary to adjust any claim. It is assumed that reporting these data elements entail little additional costs. In addition, these elements are duplicative of the annual aggregate data reporting requirement, costs of which are included elsewhere.

Costs will be incurred due to the additional variables related to the alleged error or omission and the type and severity of the injury. The underlying information necessary to satisfy this reporting requirement

would be necessary to properly adjudicate a claim and should be available to reporting entities. Costs will be associated with codifying the data in the required format. Perusal of existing claims reporting, which includes a narrative of the allegation, supports the assumption that reporting entities possess the necessary detailed information. In addition, the NPDB currently requires all of the entities impacted by the proposed rule to report injury and error and omission data.

3. Implementing electronic filing will produce off-setting cost reductions vis-à-vis the current reporting requirements.

## V. Worksheet – Rate Making, Base Rates & Actual Rate Reporting

The following table summarizes the department's estimate of the additional cost insurers will incur due to the proposed rule. The costs are expressed per "entity" and for the entire industry. Some insurers operate as a group and a single unit within the group prepares the data reports for all of the companies in the group. For this reason the department considers each such group to be a single entity.

### Estimated Compliance Cost

		Per Entity	Industry Total
Initial Cost	\$	19,423	\$ 815,769
Ongoing Cost	\$	3,413	\$ 143,365
Med Mal Written Premium			\$223,774,188
Initial Percent of WP			0.36%
Ongoing Percent of WP			0.06%

## VI. Assumptions - Rate Making, Base Rates & Actual Rate Reporting

### Limitations and Admonitions

The estimates set forth herein are forecasts of future costs. These estimates depend upon such factors the current insurance company staffing and cost structure, and the amount and cost of additional resources needed for compliance. Data reporting capabilities and costs vary a great deal from entity to entity. Although the estimates discussed herein reflect the department actuary's best professional judgment, substantial variance of actual results from the projections contained in this projection is possible.

Although the estimates are made and presented per entity, the cost for any particular insurer or insurer group could be much different from the average.

### Data Methods and Assumptions

Cost estimates are documented in Exhibit 1. Compliance cost is estimated for the general reporting requirements applicable to all medical malpractice insurers and for the additional reporting requirements for insurers of physicians. Compliance costs for each type of requirement equals the estimated hours of work needed for compliance times the hourly rate times the number of entities.



The hours of additional work needed to comply with the proposed regulation are estimated separately for initial compliance and on an ongoing basis. The department actuary estimate's that initial compliance will require an additional 84 eight-hour work days per entity. This initial work is assumed to involve a review of current data elements for compliance, adding new data elements, and data extracts. Initial work includes the requirement to report certain premium, exposure and loss experience for 10 prior years. Insurers of physicians must also report data in support of a Missouri-specific merit rating plan, median rate and base rate information. Ongoing compliance is estimated to require an additional 15 work days per entity. Ongoing work includes maintenance (such as updating class codes) and production of annual reports.

The hourly rate is based on an annual cost of \$65,000 per year per person. This is intended to reflect salary, benefits and overhead (including IT systems and clerical support). According to the Bureau of Labor Statistics, the current average annual wage for a computer support specialist is \$43,380. The department actuary estimate's the cost of benefits, payroll taxes, overhead and support to be an additional 50% of salary, resulting in an annual cost per person of \$65,000.

Exhibit 2 shows an inventory of the insurers actively writing medical malpractice insurance in Missouri. This exhibit is used to estimate the current number of entities writing medical malpractice insurance in Missouri. This list includes surplus lines insurers and but excludes risk retention groups. Although risk retention groups are subject to the rule, compliance costs are not presently expected to apply.

## Exhibit 1

## Missouri Department of Insurance, Financial Institutions and Professional Registration

20 CSR 600-1.030 Medical Malpractice Statistical Data Reporting  
Estimated Compliance Cost

	<u>Initial</u>	<u>Ongoing</u>
<u>Basic Compliance - All Insurers</u>		
Hours of work	340	55
Cost per hour	\$ <u>28.85</u>	\$ <u>28.85</u>
Total Cost per Entity	\$ 9,808	\$ 1,587
Number of Entities	42	42
Subtotal	\$ 411,923	\$ 66,635
<u>Additional Compliance - Insurers of Physicians</u>		
Hours of work	500	95
Cost per hour	\$ <u>28.85</u>	\$ <u>28.85</u>
Total Cost per Entity	\$ 14,423	\$ 2,740
Number of Entities	28	28
Subtotal	\$ 403,846	\$ 76,731
Total	\$ 815,769	\$ 143,365
Percent of Premium	0.36%	0.06%

Assumptions

Cost per hour = based on \$65,000 per worker per year.  
Includes overhead & staff support.

Number of Entities = See Exhibit 2.

Exhibit 2

Missouri Department of Insurance, Financial Institutions and Professional Registration  
Schedule T(a) Medical Malpractice

Source: NAIC  
State: MO  
Year: 2006

Entity Count	Group Code	Cocode	Company Name	Insures Physicians & Surgeons	Written Premium
1	12	19445	National Union Fire Ins Co Of Pitts. Pa.	Yes	2,893,616
0	12	19437	Lexington Ins Co	Yes	3,383,285
0	12	23809	Granite State Ins Co	No	62,805
0	12	19380	American Home Assurance Company	No	94,565
0	12	35637	Landmark Ins Co	No	602,299
1	31	37362	General Star Indemnity Company	Yes	121,458
0	31	20079	National Fire & Marine Ins Co	Yes	639,274
0	31	11843	The Medical Protective Company	Yes	16,278,171
1	98	24856	Admiral Ins Co	No	806,588
1	140	11991	National Casualty Company	Yes	2,001
1	158	37079	Hudson Specialty Ins Co	Yes	5,781,770
1	163	24732	General Ins Co Of America	Yes	4,265
1	176	25143	State Farm Fire And Casualty Co	No	82,232
1	212	26387	Steadfast Ins Co	Yes	1,463,878
1	218	20443	Continental Casualty Company	Yes	1,692,015
0	218	20427	American Casualty Co Of Reading, PA	Yes	2,959,624
0	218	31127	Columbia Casualty Company	Yes	5,277,727
1	244	10677	Cincinnati Ins Co	No	1,739,383
1	361	19720	American Alternative Insurance Corp	No	58,984
0	361	10786	Princeton Excess & Surp Lines Ins Co	No	2,580,690
1	457	39993	Colony Ins Co	No	30,500
1	501	16624	Darwin National Assurance Company	Yes	285,503
0	501	24319	Darwin Select Ins Co	No	288,896
0	501	33138	Landmark American Ins Co	No	1,190,861
1	508	10801	Fortress Ins Co	No	177,622
1	626	27960	Illinois Union Ins Co	Yes	3,290,479
0	626	22667	Ace American Ins Co	No	661,733
1	761	22810	Chicago Ins Co	Yes	961,304
0	761	21881	National Surety Corporation	No	1,039
0	761	21865	Associated Indemnity Corporation	No	2,506
0	761	21857	The American Ins Co	No	76,558
0	761	22829	Interstate Fire & Casualty Company	No	225,188
1	775	13714	Pharmacists Mutual Ins Co	No	398,805
1	785	35378	Evanston Ins Co	Yes	3,190,370
1	831	34487	Professional Underwriters Liab Ins Co	Yes	29,617
0	831	34495	Doctors Company, An Interins Exchange	Yes	5,545,685
1	861	10686	Medical Liability Alliance	Yes	8,306,644
0	861	27642	Missouri Hospital Plan	No	33,039,047

1	866	13196	Western World Ins Co	No	468,412
1	984	42374	Houston Casualty Company	No	4,830
1	1120	10851	Everest Indemnity Ins Co	Yes	1,131,837
1	1129	21970	OneBeacon Ins Co	Yes	226,660
0	1129	34452	Homeland Ins Co Of New York	Yes	579,278
1	1272	33367	Intermed Ins Co	Yes	7,084,217
1	1279	21199	Arch Specialty Ins Co	Yes	2,172,514
1	2358	32921	ISMIE Mutual Ins Co	Yes	269,066
1	2638	11127	Professional Solutions Ins Co	Yes	1,147,741
0	2638	15865	NCMIC Ins Co	No	1,389,575
1	2698	33391	The Medical Assurance Company	Yes	23,272,154
1	3504	10222	PACO Assurance Company, Inc.	No	42,991
0	3504	14460	Podiatry Ins Co Of America, A Mutual	No	1,545,037
1		12361	Galen Ins Co	Yes	2,038,422
1		34703	Kansas Medical Mutual Ins Co	Yes	2,429,333
1		44083	Preferred Physicians Medical RRG	Yes	2,904,338
1		36234	Preferred Professional Ins Co	Yes	3,362,106
1		12513	Professional Liab Ins Co Of Am	Yes	3,970,894
1		11964	Missouri Doctors Mutual Ins Co	Yes	4,613,024
1		11704	Physicians Professional Ind Assoc	Yes	10,468,408
1		11582	Missouri Physicians Mutual	Yes	41,270,790
1		10717	Aspen Specialty Ins Co	No	17,920
1		18767	Church Mutual Ins Co	No	343,730
1		12175	Systems Protection Assurance Inc.	No	911,619
1		35904	Health Care Indemnity Inc.	No	7,882,305
42			Grand Total		\$223,774,188
28			Insures Physicians and Surgeons		\$169,047,468

Excludes companies with zero or less direct written premium.

Excludes out-of-state risk retention groups.

The documents used to prepare this Private Cost Fiscal Note are available at the Department of Insurance, Financial Institutions and Professional Registration office at 301 West High Street, Room 530, Jefferson City, MO 65201, or by contacting Tamara Wallace by telephone at (573) 751-2619.

**T**his 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*.

**T**he 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

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

3 CSR 10-5.422 is adopted.

This rule relates seasons and limits for hunting during the 2007 season and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation adopted 3 CSR 10-5.422 by establishing youth antlerless deer hunting provisions.

**3 CSR 10-5.422 Youth Firearms Antlerless Deer Hunting Permit**

*PURPOSE: This rule establishes a new permit that allows the taking of antlerless deer by youth.*

To pursue, take, possess and transport one (1) antlerless deer during the firearms deer hunting season; only by persons at least six (6) but not older than fifteen (15) years of age who are hunting in the immediate presence of a properly licensed adult hunter who has in his/her possession a valid hunter education certificate card, or who are hunting in the immediate presence of a resident landowner or lessee as defined in this Code on lands owned or leased by the resident landowner or lessee, provided the resident landowner or lessee was born before January 1, 1967. Fee: seven dollars (\$7).

**SUMMARY OF PUBLIC COMMENTS:** Seasons and limits are excepted from the requirement of filing as a proposed rule under section 536.021, RSMo.

Original rule filed May 21, 2007, effective **July 1, 2007**.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: 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 10-7.431 is amended.

This rule establishes deer hunting seasons and limits for the 2007–2008 seasons and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.431 by establishing deer hunting seasons.

**3 CSR 10-7.431 Deer Hunting Seasons: General Provisions**

*PURPOSE: This amendment establishes deer hunting seasons and limits for the 2007–2008 seasons.*

(1) The annual *Fall Deer & Turkey Hunting Regulations and Information* booklet for 2007 is hereby adopted as a part of this Code and by this reference herein incorporated. A printed copy of this booklet can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and is online at [www.missouriconservation.org](http://www.missouriconservation.org). This rule does not incorporate any subsequent amendments or additions.

(5) Deer Hunting Methods.

(A) Archery: longbows, recurve bows and compound bows.

(6) Deer may not be hunted, pursued, taken or killed:

(G) With the aid of bait (grain or other feed placed or scattered so as to constitute an attraction or enticement to deer). Scents and minerals, including salt, are not regarded as bait, however, mineral blocks with food additives are prohibited. An area is considered baited for ten (10) days following complete removal of bait. Hunters can be in violation even if they did not know an area was baited. It is illegal to place bait in a way that causes others to be in violation of the baiting rule.

**SUMMARY OF PUBLIC COMMENTS:** Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed May 21, 2007, effective **July 1, 2007**.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: 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 10-7.432 is amended.

This rule establishes deer hunting seasons and limits for the 2007–2008 seasons and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.432 by establishing deer hunting seasons.

### 3 CSR 10-7.432 Deer: Archery Hunting Season

*PURPOSE: This amendment establishes deer hunting seasons and limits for the 2007–2008 seasons.*

(1) The archery deer hunting season is September 15, 2007, through January 15, 2008, excluding the November portion of the firearms deer hunting season. Use archery methods only; firearms may not be possessed.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed May 21, 2007, effective **July 1, 2007**.

## Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 7—Wildlife Code: Hunting: 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 10-7.433 is amended.

This rule establishes deer hunting seasons and limits for the 2007–2008 seasons and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.433 by establishing deer hunting seasons.

### 3 CSR 10-7.433 Deer: Firearms Hunting Seasons

*PURPOSE: This amendment establishes deer hunting seasons and limits for the 2007–2008 seasons.*

(1) The firearms deer hunting season is comprised of five (5) portions.

(A) Urban counties portion: October 5 through 8, 2007; use any legal deer hunting method to take antlerless deer in open counties.

(B) Youth portion: October 27 and 28, 2007; for persons at least six (6) but not older than fifteen (15) years of age and qualifying landowner or lessee youth age fifteen (15) and younger; use any legal deer hunting method to take one (1) deer statewide.

(C) November portion: November 10 through 20, 2007; use any legal deer hunting method to take deer statewide.

(D) Muzzleloader portion: November 23 through December 2, 2007; use muzzleloader methods to take deer statewide.

(E) Antlerless portion: December 8 through 16, 2007; use any legal deer hunting method to take antlerless deer in open counties.

(2) Firearms Deer Hunting Permits.

(C) Resident or Nonresident Firearms Antlerless Deer Hunting Permit, Youth Firearms Antlerless Deer Hunting Permit: valid for one (1) antlerless deer in any open county. Persons may purchase any number of these permits and fill them where valid. A Nonresident Firearms Any-Deer Hunting Permit must be purchased before purchasing Nonresident Firearms Antlerless Deer Hunting Permits.

(4) Other wildlife may be hunted during the firearms deer hunting season with the following restrictions:

(A) During the November portion statewide and the antlerless portion in open counties, other wildlife may be hunted only with pistol, revolver, or rifle firing a .22 caliber or smaller rimfire cartridge, or a shotgun and shot not larger than No. 4; except that waterfowl hunters, trappers, landowners on their land or lessees on land upon which they reside may use other methods as specified in 3 CSR 10-7.410(1)(G).

(5) Feral hogs, defined as any hog, including Russian and European wild boar, not conspicuously identified by ear tags or other forms of identification and roaming freely on public or private lands without the landowner's permission (refer to section 270.400 of *Missouri Revised Statutes*), may be taken in any number during the firearms deer hunting season as follows:

(B) During the November portion statewide and the antlerless portion in open counties:

1. Firearms deer permittees may only use methods allowed for deer.

2. Small game permittees may only use pistol, revolver, or rifle firing a .22 caliber or smaller rimfire cartridge, or a shotgun with shot not larger than No. 4.

3. Dogs may not be used.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed May 21, 2007, effective **July 1, 2007**.

## Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 7—Wildlife Code: Hunting: 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 10-7.434 is amended.

This rule establishes deer hunting seasons and limits for the 2007–2008 seasons and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.434 by establishing deer hunting seasons.

### 3 CSR 10-7.434 Deer: Landowner Privileges

*PURPOSE: This amendment establishes deer hunting seasons and limits for the 2007–2008 seasons.*

(4) All landowners and lessees who take deer on landowner permits may also purchase and fill other deer hunting permits but must abide

by seasons, limits, and restrictions. A landowner or lessee may take only one (1) antlered deer during the firearms deer hunting season. A landowner or lessee may take only two (2) antlered deer during the archery deer hunting season except that only one (1) antlered deer may be taken prior to the November portion of the firearms deer hunting season.

**SUMMARY OF PUBLIC COMMENTS:** Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed May 21, 2007, effective **July 1, 2007**.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: 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 10-7.437 is amended.

This rule establishes deer hunting seasons and limits for the 2007–2008 seasons and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.437 by establishing deer hunting seasons.

**3 CSR 10-7.437 Deer: Antlerless Deer Hunting Permit Availability**

*PURPOSE: This amendment establishes deer hunting seasons and limits for the 2007–2008 seasons.*

(2) Firearms Deer Hunting Season.

(B) Only one (1) Resident or Nonresident Firearms Antlerless Deer Hunting Permit or Youth Firearms Antlerless Deer Hunting Permit per person may be filled in the counties of: Crawford, Dent, Douglas, Franklin, Gasconade, Jefferson, Maries, Osage, Ozark, Perry, Phelps, Pulaski, Ripley, Shannon, St. Francois, Ste. Genevieve, Taney, Texas, and Washington.

(C) Any number of Resident or Nonresident Firearms Antlerless Deer Hunting Permits or Youth Firearms Antlerless Deer Hunting Permits may be filled in the counties of: Adair, Andrew, Atchison, Audrain, Barry, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Camden, Carroll, Cass, Cedar, Chariton, Clark, Clay, Clinton, Cole, Cooper, Dade, Dallas, Daviess, DeKalb, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Howell, Jackson, Jasper, Johnson, Knox, Laclede, Lafayette, Lawrence, Lewis, Lincoln, Linn, Livingston, McDonald, Macon, Marion, Mercer, Miller, Moniteau, Monroe, Montgomery, Morgan, Newton, Nodaway, Oregon, Pettis, Pike, Platte, Polk, Putnam, Ralls, Randolph, Ray, St. Charles, St. Clair, St. Louis, Saline, Schuyler, Scotland, Shelby, Stone, Sullivan, Vernon, Warren, Webster, Worth, and Wright.

**SUMMARY OF PUBLIC COMMENTS:** Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed May 21, 2007, effective **July 1, 2007**.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: 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 10-7.438 is amended.

This rule establishes deer hunting seasons and limits for the 2007–2008 seasons and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.438 by establishing deer hunting seasons.

**3 CSR 10-7.438 Deer: Regulations for Department Areas**

*PURPOSE: This amendment establishes deer hunting seasons and limits for the 2007–2008 seasons.*

Deer may be hunted on lands owned or leased by the department and on lands managed by the department under cooperative agreement as authorized in the annual *Fall Deer & Turkey Hunting Regulations and Information* booklet for 2007. This publication is incorporated by reference. A copy of this booklet is published by and can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. It is also available online at [www.missouriconservation.org](http://www.missouriconservation.org). This rule does not incorporate any subsequent amendments or additions.

**SUMMARY OF PUBLIC COMMENTS:** Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed May 21, 2007, effective **July 1, 2007**.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: 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 10-7.455 is amended.

This rule relates seasons and limits for hunting during the 2007 season and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.455 by establishing an archery hunting season for turkey during the fall season.

**3 CSR 10-7.455 Turkeys: Seasons, Methods, Limits**

*PURPOSE: This amendment establishes fall archery turkey hunting dates and clarifies archery methods.*

(1) Turkeys may be pursued, taken, killed, possessed or transported only as permitted in this rule.

(C) Fall Archery Season. A person possessing the prescribed archer's hunting permit may take two (2) turkeys of either sex from September 15 through January 15, excluding the dates of the November portion of the firearms deer season. Turkeys may be taken only by longbows, recurve bows and compound bows; without the use of dogs, bait, electronic calls or live decoys; from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. An archer, while in the act of pursuing or hunting turkey on an archer's permit, shall not have a firearm on his/her person. Possession of electronic calls is prohibited while hunting turkeys.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed May 21, 2007, effective **July 1, 2007**.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 20—Wildlife Code: Definitions**

**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 10-20.805 is amended.

This rule relates seasons and limits for hunting during the 2007 season and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-20.805 by establishing provisions for hunting.

**3 CSR 10-20.805 Definitions**

*PURPOSE: This amendment clarifies archery methods for hunting.*

(6) Bow: A device drawn and held by hand and not fastened to a stock nor to any other mechanism that maintains the device in a drawn position. This definition includes longbows, recurve bows and compound bows.

(7) Cable restraint device: A device for the live-capture of certain furbearers in a non-water set by use of a cable loop made of stranded steel cable, not greater than five feet (5') long (not including extensions), with a diameter of not less than five sixty-fourths inch (5/64") and equipped with a commercially manufactured breakaway rated at three hundred fifty pounds (350 lbs.) or less, a relaxing-type lock, a stop device that prevents it from closing to less than two and one-half inches (2 1/2") in diameter, and an anchor swivel, but shall not be equipped with a compression-type choke spring, or be otherwise mechanically-powered.

(8) Cervid: All species of the deer family (family *Cervidae*) including those commonly known as white-tailed, mule, fallow, sika, red, musk, Pere David's deer, moose, caribou, reindeer, elk, or wapiti, and all deer-hybrids.

(9) Chase or chased: The act of using dogs to follow wildlife for the purpose of recreation or dog training, but not for the purpose of catching or taking that wildlife.

(10) Circus: A scheduled staged event in which entertainment includes performances by trained wildlife, either native or nonnative to the continental United States, and in which physical contact between wildlife and humans is restricted to the handlers, performers or other circus employees.

(11) Closed season: That period of time during which the pursuit or taking of wildlife is prohibited by this Code.

(12) Commercial establishment: Any place of business, owned or operated by any person or group of persons, or business concern of any kind, where ordinary trade or business practices are conducted. This term shall include, but is not restricted to, any club, association or society where meals, lodging or other services or facilities are furnished for a consideration, price or fee.

(13) Commercial fish: All fish except endangered species as listed in 3 CSR 10-4.111(3) and game fish as defined in this rule. Includes those species for which sale is permitted when legally obtained. For purposes of this Code, packaged salt water species or freshwater species not found in waters of this state, when the processed fish are truly labeled as to content, point of origin and name and address of the processor, are exempt from restrictions applicable to native commercial fish. Commercial fish include common snapping and soft-shelled turtles and crayfish taken from waters open to commercial fishing. In the Mississippi River and that part of the St. Francis River which forms the boundary between the states of Arkansas and Missouri, commercial fish also include channel, blue and flathead catfish at least fifteen inches (15") in total length. In the Mississippi River only, commercial fish also include paddlefish at least twenty-four inches (24") in length (measured from eye to fork of tail) and shovelnose sturgeon twenty-four inches to thirty-two inches (24"-32") in length (measured from tip of snout to fork of tail). In the Missouri River downstream from U.S. Highway 169 to Carl R. Noren Access and downstream from Chamois Access to its confluence with the Mississippi River, commercial fish also include shovelnose sturgeon twenty-four inches to thirty inches (24"-30") in length (measured from tip of snout to fork of tail).

(14) Commercial waters: The flowing portions of the Missouri River, the Mississippi River except in Sand Chute below the mouth of the Salt River in Pike County, and that part of the St. Francis River which forms a boundary between the states of Arkansas and Missouri, and also waters which exist temporarily through overflow from the Mississippi River east of the Missouri Pacific Railroad between Cape Girardeau and Scott City, and east of the Mississippi River mainline and setback levees between Commerce and the Arkansas state line.

(15) Commission: The Conservation Commission as specified in Section 3, Reorganization Act of 1974, pursuant to Article IV, Section 40(a) of the *Constitution of Missouri* (see also Article IV, Section 12).

(16) Crossbow: A device for discharging quarrels or bolts, formed of a bow set crosswise on a stock, usually drawn by means of a mechanism and discharged by release of a trigger.

(17) Days or dates: All days and dates shall be inclusive. A day shall begin or end at midnight, unless otherwise specified.

(18) Department: The Department of Conservation as specified in Section 3, Reorganization Act of 1974, pursuant to Article IV, Section 40(a) of *Constitution of Missouri* (see also Article IV, Section 12).

(19) Director: The director of the Department of Conservation.

(20) Ditch: Any artificial drainageway, tributary to a stream or body of water, and containing sufficient water to support fish.



(21) Domicile: The place where a person has his/her true, fixed and permanent home and principal establishment and to which whenever s/he is absent s/he has the intention of returning. It is his/her legal residence, as distinguished from his/her temporary place or abode; or his/her home, as distinguished from a place to which business or pleasure may temporarily call him/her.

(22) Field trial: An organized event, contest, demonstration or trial of dogs whether or not prizes or awards of any kind are offered and where dogs may be used to chase, locate, pursue or retrieve wildlife.

(23) Firearms: Pistols, revolvers and rifles propelling a single projectile at one (1) discharge including those powered by spring, air or compressed gas, and shotguns not larger than ten (10) gauge.

(24) Flies, lures and baits: The following are authorized for use except where restricted in 3 CSR 10-6.415, 3 CSR 10-6.535, 3 CSR 10-11.205, 3 CSR 10-12.135 and 3 CSR 10-12.150.

(A) Natural and scented baits—A natural fish food such as bait fish, crayfish, frogs permitted as bait, grubs, insects, larvae, worms, salmon eggs, cheese, corn and other food substances not containing any ingredient to stupefy, injure or kill fish. Does not include flies or artificial lures. Includes dough bait, putty or paste-type bait, any substance designed to attract fish by taste or smell and any fly, lure or bait containing or used with such substances.

(B) Soft plastic bait (unscented)—Synthetic eggs, synthetic worms, synthetic grubs and soft plastic lures.

(C) Artificial lure—A lure constructed of any material excluding soft plastic bait and natural and scented bait as defined in (A) or (B) above.

(D) Fly—An artificial lure constructed on a single-point hook, using any material except soft plastic bait and natural and scented bait as defined in (A) or (B) above, that is tied, glued or otherwise permanently attached.

(25) Furbearing animals: Furbearers: Badger, beaver, black bear, bobcat, coyote, gray fox, long-tailed weasel, mink, mountain lion, muskrat, nutria, opossum, raccoon, red fox, river otter, spotted skunk and striped skunk.

(26) Game birds: American coot, American woodcock, common snipe, crows, ducks, Eurasian collared-dove, geese, gray partridge, mourning dove, northern bobwhite quail, ring-necked pheasant, ruffed grouse, sora rail, Virginia rail, white-winged dove and wild turkey.

(27) Game fish: Shall include the following in which the common names are to be interpreted as descriptive of, but not limiting, the classification by Latin names:

(A) *Ambloplites*, all species of rock bass, commonly known as goggle-eye, redeye, shadow bass, Ozark bass.

(B) *Esox*, all species commonly known as muskellunge, tiger muskie, muskie-pike hybrid, northern pike, chain pickerel, grass pickerel.

(C) *Ictalurus*, all species except bullheads, commonly known as channel catfish, blue catfish, Mississippi cat, Fulton cat, spotted cat, white cat, willow cat, fiddler cat.

(D) *Lepomis gulosus*, commonly known as warmouth bass.

(E) *Micropterus*, all species of black bass and their hybrids, commonly known as largemouth bass, lineside bass, smallmouth bass, brown bass, Kentucky bass, spotted bass.

(F) *Morone*, all species and their hybrids, commonly known as white bass, yellow bass, striped bass.

(G) *Oncorhynchus and Salmo*, all species commonly known as salmon and trout.

(H) *Polyodon*, all species, commonly known as paddlefish, spoon-bill.

(I) *Pomoxis*, all species, commonly known as crappie, white crappie, black crappie.

(J) *Pylodictis*, commonly known as flathead catfish, goujon, yellow cat, river cat.

(K) *Sander*, all species and their hybrids, commonly known as walleye, pike perch, jack salmon, sauger.

(L) *Scaphirhynchus platyrhynchus*, commonly known as shovelnose sturgeon, hackleback, sand sturgeon.

(28) Game mammals: Cottontail rabbit, deer, fox squirrel, gray squirrel, groundhog (woodchuck), jackrabbit, swamp rabbit and furbearers as defined.

(29) Grab: The act of snagging or attempting to snag a fish by means of a pole, line and hook manipulated by hand.

(30) Hook: Single- or multiple-pronged hooks and the ordinary artificial lures with attached single- or multiple-pronged hooks and drop-per flies. A multiple-pronged hook or two (2) or more hooks employed to hold a single bait, shall be considered a single hook in counting the allowable total in use.

(31) Invertebrate: Any animal lacking a backbone; this includes all animal phyla other than *Chordata*. (Examples include insects and other arthropods, flatworms, roundworms, segmented worms and mollusks.)

(32) Length of fish: Total length is measured from the tip of the snout to the end of the tail, with the fish laid flat on the rule with mouth closed and tail lobes pressed together. The length of paddlefish is measured from the eye to the fork of the tail. The length of sturgeon is measured from the tip of the snout to the fork of the tail.

(33) Lessee: Any Missouri resident who resides on and leases at least five (5) acres of land in one (1) continuous tract owned by others, or any member of the immediate household whose legal residence and domicile is the same as the lessee's for at least thirty (30) days last past.

(34) Limit: The maximum number or quantity, total length, or both, of any wildlife permitted to be taken or held in possession by any person within a specified period of time according to this Code.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed May 21, 2007, effective July 1, 2007.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 50—Division of School Improvement  
Chapter 500—Virtual Schools**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Education under sections 161.092, RSMo Supp. 2006, and 161.097, RSMo 2000, the board withdraws a rule as follows:

**5 CSR 50-500.010 Virtual Instruction Program is withdrawn.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2007 (32 MoReg 412-414). This proposed rule is withdrawn.

SUMMARY OF COMMENTS: The State Board of Education received a comment seeking additional language clarification.

RESPONSE: The State Board of Education has carefully reviewed the comment and is withdrawing the proposed rule.

**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 161.092, RSMo Supp. 2006 and 162.685, RSMo 2000, the board hereby amends a rule as follows:

5 CSR 70-742.140 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. During the month of February 2007, the Division of Special Education conducted three (3) public hearings regarding proposed changes to the Part B State Plan implementing the Individuals with Disabilities Education Act (IDEA). The hearings were conducted in Columbia, St. Louis, and Kansas City.

This rule becomes effective thirty (30) days after publication in the *Code of State Regulations*. This rule describes Missouri's services for children with disabilities, in accordance with Part B of the Individuals with Disabilities Education Act (IDEA).

**5 CSR 70-742.140 Individuals with Disabilities Education Act, Part B.** This order of rulemaking amends subsections (2)(C), (2)(E), (2)(F), (2)(G), and (2)(H); deletes subsections (2)(I) and (2)(L); amends and renumbers subsections (2)(J) to (2)(I) and (2)(K) to (2)(J) and amends the incorporated by reference material, *Regulations Implementing Part B of the Individuals with Disabilities Education Act*, to bring the program plan in compliance with federal statutes.

(2) The content of this state plan for the Individuals with Disabilities Education Act (IDEA), Part B, which is hereby incorporated by reference and made a part of this rule, meets the federal statute and Missouri's compliance in the following areas. A copy of the IDEA, Part B (revised 2007) 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.

(C) Identification and Evaluation:

1. Child Find;
2. Definitions and Criteria for Determination of Eligibility;
3. Procedures for Evaluation and Determination of Eligibility;

and

4. Additional Procedures.

(E) Procedural Safeguards/Discipline:

1. Opportunity to Examine Education Records/Parent Participation in Meetings;
2. Independent Educational Evaluation;
3. Written Notice;
4. Procedural Safeguards Notice;
5. Parental Consent;
6. Administrative Hearing Rights;
7. Surrogate Parents (Educational Surrogates);
8. Transfer of Parental Rights at Age of Majority; and
9. Disciplinary Actions/Removals/Expedited Hearings.

(F) Department of Elementary and Secondary Education (DESE) Responsibilities:

1. General Supervision Responsibilities;
2. Application, Evaluation and Approval of Private Educational Agencies;
3. Child Complaint Process;
4. Full Educational Opportunities Goal;

5. Methods of Ensuring Services;
  6. Performance Goals and Indicators;
  7. Public Participation;
  8. State Advisory Panel;
  9. Suspension and Expulsion Rates;
  10. Access to Instructional Materials;
  11. Overidentification and Disproportionality;
  12. Prohibition on Mandatory Medication;
  13. State Administration; and
  14. Personnel Qualifications.
- (G) Local Education Agency (LEA) Eligibility:
1. Condition of Assistance;
  2. Consistency with State Policies;
  3. Subgrants to LEAs;
  4. Use of Amounts;
  5. Excess Cost Requirement;
  6. Maintenance of Effort;
  7. School-Wide Programs Under Title I of the Elementary and Secondary Education Act;
  8. Personnel Development;
  9. Permissive Use of Funds;
  10. Early Intervening Services;
  11. Purchase of Instructional Materials;
  12. Information for State Education Agency;
  13. Records Regarding Migratory Children with Disabilities;
  14. Accounting and Payment Procedures;
  15. Hearings Related to Local Education Agency Eligibility;
- and
16. Class Size and Caseloads.

(H) Private Schools:

1. Children Placed in Approved Private Agencies by Public Agencies;
2. Children Enrolled by Their Parents in Private Schools When Free Appropriate Public Agency is at Issue;
3. Children with Disabilities Enrolled by Their Parents in Private Schools—Child Find; and
4. LEA Requirements to Provide Services for Parentally-Placed Private School Children with Disabilities.

(I) Special School Districts:

1. Basis for Compliance;
2. Structure of Compliance;
3. Compliance Requirements; and
4. Assurance of Compliance.

(J) State Operated Programs:

1. State Education Agency (SEA) Provision of Direct Services;
2. State Schools for Severely Handicapped; and
3. Missouri School for the Blind and Missouri School for the Deaf.

*AUTHORITY: sections 161.092, RSMo Supp. 2006 and 162.685, RSMo 2000. Original rule filed April 11, 1975, effective April 21, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed May 25, 2007.*

**Title 8—DEPARTMENT OF LABOR AND  
INDUSTRIAL RELATIONS  
Division 10—Division of Employment Security  
Chapter 3—Unemployment Insurance**

**ORDER OF RULEMAKING**

By the authority vested in the Division of Employment Security under sections 288.060, RSMo Supp. 2006, and 288.220, RSMo 2000, the division amends a rule as follows:

**8 CSR 10-3.130 Electronic Transfer of Unemployment Benefits  
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2007 (32 Mo Reg 537-538). 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 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 5—Air Quality Standards and Air Pollution  
Control Rules Specific to the St. Louis Metropolitan Area**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

**10 CSR 10-5.375 Motor Vehicle Emissions Inspection Waiver  
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2007 (32 MoReg 305). 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 written or verbal comments were received concerning this proposed rescission during the public comment period.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 5—Air Quality Standards and Air Pollution  
Control Rules Specific to the St. Louis Metropolitan Area**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

**10 CSR 10-5.380 Motor Vehicle Emissions Inspection  
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2007 (32 MoReg 305-306). 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 written or verbal comments were received concerning this proposed rescission during the public comment period.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 5—Air Quality Standards and Air Pollution  
Control Rules Specific to the St. Louis Metropolitan Area**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission adopts a rule as follows:

10 CSR 10-5.381 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 15, 2007 (32 MoReg 306-319). 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 Missouri Department of Natural Resources' Air Pollution Control Program received eleven (11) comments on the proposed rule from two (2) sources: The Missouri State Highway Patrol (MSHP) and the U.S. Environmental Protection Agency (EPA).

COMMENT #1: MSHP commented that the definition of MSHP in subsection (2)(Q) should include the joint oversight responsibility by the MSHP and the Department of Natural Resources for the On-Board Diagnostics II emissions program.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program has adjusted the definition as a result of this comment.

COMMENT #2: MSHP commented that subpart (3)(E)2.A.(V)(b) should be deleted because a gas cap pressure check will not be performed.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program has deleted this subpart and relettered the subparts as a result of this comment.

COMMENT #3: MSHP commented that, in part (3)(F)4.E.(I), providing a copy of a business license is a redundant requirement as the current business license is already registered in the municipality that the business is located in.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department's Air Pollution Control Program has deleted this part and relettered the parts. Also, after clarifying discussions with the MSHP, the department's Air Pollution Control Program has clarified the language in this subparagraph to reflect that the fax number is optional, only the inspector's first initial is required, and the inspector that is already licensed by the MSHP shall submit their inspector license number with their application.

COMMENT #4: MSHP commented that, in subparagraph (3)(F)4.F., the last sentence should be deleted because MSHP rules require a new licensing application and fee when a business location changes sites.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the second to last sentence in this subparagraph has been amended to reflect that a new licensing application and fee will be required for businesses that change location.

COMMENT #5: MSHP commented that subparagraphs (3)(F)7.A. to (3)(F)7.D. should be revised to reflect that the MSHP will issue the station licenses, inspector licenses, signs and posters listed in these subparagraphs.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department's Air Pollution Control Program has amended these subparagraphs and paragraph (3)(G)1.

COMMENT #6: MSHP commented that, in paragraph (3)(G)4., the language should require the state's contractor to provide the training program and subsequent testing for the emissions inspectors, after the training is certified by the MSHP and the Department of Natural Resources. Further, after the inspector passes the OBD training and

test, the inspector must submit an application to take the safety inspection test. If the inspector passes the written safety portion of the test, then a practical test is administered by the MSHP. After passing this exam, a safety and emissions permit is issued to the inspector. Upon initial startup of the decentralized vehicle emissions inspection program, any licensed safety-only inspector working at an emissions inspection station will simply have to pass the emissions test conducted by the contractor. Once verified by MSHP, the inspector can conduct combined safety and emissions inspections.

**RESPONSE AND EXPLANATION OF CHANGE:** As suggested, the department's Air Pollution Control Program has amended the language in paragraphs (3)(G)3. and (3)(G)4.

**COMMENT #7:** MSHP commented that, in paragraph (3)(G)5., the rule states that retraining and re-examining may be required before suspended or revoked licenses will be reinstated. It is mandatory under MSHP rules that any applicant who has had their license suspended, revoked or expired has to pass a written and then a practical test to obtain a valid license.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has amended the language in this paragraph to clarify that the retraining and reexamination requirements for suspended and revoked licensees are mandatory.

**COMMENT #8:** MSHP commented about paragraph (3)(H)1. that, if a vehicle requires both an emissions and safety test, then the safety test must be conducted first. Additionally, vehicles that require a safety and emission inspection cannot be safety inspected at an inspection station that is licensed to perform only safety inspections. **RESPONSE:** Because the state statutes that authorize the decentralized emissions inspection program do not give the Missouri Air Conservation Commission the authority to establish safety inspection rules, the department's Air Pollution Control Program did not make any changes as a result of this comment.

**COMMENT #9:** MSHP commented that subparagraph (3)(J)2.B. should be deleted because the vehicle owner should have the option for the inspection station that failed the vehicle to make repairs prior to reinspection.

**RESPONSE AND EXPLANATION OF CHANGE:** As a result of this comment, the department's Air Pollution Control Program has deleted this subparagraph.

**COMMENT #10:** MSHP commented that subsection (3)(M) states, in part, that paper vehicle inspection reports may not be used for registration purposes. MSHP believes that the paper report should be allowed for registration purposes for customer convenience for vehicles exempt from emissions inspection.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has added language to clarify that the paper vehicle inspection report may be used in cases where the real time vehicle inspection database is not functioning properly. Such use of the paper vehicle inspection reports must be authorized by the department.

**COMMENT #11:** EPA commented that it is important to note that Missouri has to insure that the revised Inspection/Maintenance (I/M) program meets all the requirements of a basic I/M program and demonstrates that the program effectively supports the St. Louis eight (8)-hour ozone nonattainment demonstration. EPA furnished a partial list of requirements in 40 CFR Part 51 Subpart S, I/M Program Requirements, that need to be addressed at State Implementation Plan submittal and these requirements are:

- Program Evaluation;
- Adequate Tools and Resources;
- Waivers;
- Motorist Compliance Enforcement;
- Quality Assurance;

- Stations, Inspectors, and Contractors Enforcement; and
- Vehicle Coverage.

**RESPONSE:** The department's Air Pollution Control Program affirms commitment to EPA to submit an I/M program that satisfies the requirements of 40 CFR Part 51 Subpart S. Since this comment does not affect the rule text language, no wording changes have been made to the proposed rulemaking as a result of this comment.

### **10 CSR 10-5.381 On-Board Diagnostics Motor Vehicle Emissions Inspection**

#### (2) Definitions.

(Q) Missouri State Highway Patrol (MSHP)—The state agency responsible for the oversight of the vehicle safety inspection program and joint oversight with the department of the vehicle emissions inspection and maintenance program.

#### (3) General Provisions.

##### (E) Emissions Inspection Equipment.

1. Performance features of emissions inspection equipment. Computerized inspection equipment is required for performing any measurement on subject vehicles. The inspection equipment shall meet or exceed all applicable EPA requirements. Newly acquired emissions inspection equipment shall be subject to the acceptance test procedures administered by the department's contractor to ensure compliance with the emissions inspection program specifications.

A. Emissions inspection equipment shall be capable of testing all subject vehicles as required by paragraph (3)(E)3. of this rule. The emissions inspection equipment shall be updated as needed to accommodate new technology vehicles. The updates shall be provided by the state's contractor without cost to the state or the licensed emissions inspection stations.

B. At a minimum, emissions inspection equipment shall be:

- (I) Automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;
- (II) Secure from tampering and/or abuse; and
- (III) Based upon written specifications.

2. Functional characteristics of computerized test systems. The test system shall be composed of motor vehicle test equipment controlled by a computer.

A. The test system shall automatically:

- (I) Make pass/fail decisions for all measurements;
- (II) Record test data to an electronic medium;
- (III) Conduct regular self-testing of recording accuracy;
- (IV) Perform electrical calibration and system integrity checks before each test, as applicable; and
- (V) Initiate immediate system lockouts for—
  - (a) Tampering with security aspects of the test system;
  - (b) Fraudulent testing activity; or
  - (c) For a full data recording medium.

B. Test systems shall include a telecommunications data link to the contractor's Vehicle Inspection Database (VID) as specified in the contract between the department and the contractor. Emissions inspection information shall be uploaded to the VID via this telecommunications data link according to subparagraphs (3)(F)2.C. and (3)(F)5.D. of this rule.

C. The test system shall ensure accurate data collection by limiting, cross-checking, and/or confirming manual data entry.

3. OBD test equipment. OBD test equipment shall meet the standards specified in 40 CFR part 85, subpart W, section 2231. Section 2231 is incorporated by reference in this rule, as published by the EPA, Office of Transportation and Air Quality, 2000 Traverwood, Ann Arbor, MI 48105 on April 5, 2001. This rule does not incorporate any subsequent amendments or additions to section 2231. The OBD test equipment shall be able to communicate with all known OBD protocols and connect to and communicate with a minimum of ninety-eight percent (98%) of all subject vehicles.

4. All emissions inspection equipment shall meet the quality control requirements described in paragraph (3)(L)5. of this rule.

(F) Emissions Inspection Station Requirements.

1. Premises.

A. Each licensed emissions inspection station shall have an inspection area within an enclosed building of sufficient length, width and height to accommodate a full size light duty vehicle or light duty truck.

B. The licensed emissions inspection station shall be in compliance with applicable city, county and state regulations relating to zoning, merchant licensing, fictitious names and retail sales tax numbers.

C. The emissions inspection area shall be sufficiently lighted, adequately heated and cooled and properly ventilated to conduct an emissions inspection.

2. Equipment. Each licensed emissions inspection station shall have the following equipment located at or near the inspection area:

A. Scraper. The scraper may be used to remove old windshield stickers;

B. Emissions inspection equipment, including hardware, software, forms, and windshield stickers. The equipment shall be purchased or leased by the inspection station from the state's contractor; and

C. Telecommunications. The station shall provide data transmission capabilities for the emissions inspection equipment. The telecommunications capabilities may be either high-speed or low-speed. The cost of this telecommunications service is the responsibility of the licensed emissions inspection station.

3. Personnel.

A. Each licensed emissions inspection station shall have a minimum of one (1) licensed emissions inspector on duty during all business days during the station's hours of inspection, except for short periods of time due to illness or annual vacation.

B. Each licensed emissions inspection station will designate, on the station license application, the emissions inspection station manager who will be in charge of emissions inspections. The emissions inspection station manager shall be responsible for the daily operation of the station and will ensure that complete and proper emissions inspections are being performed. The emissions inspection station manager shall be present at the licensed emissions inspection station during all business days during the station's hours of inspection, except for short periods of time due to illness or annual vacation.

C. If the station is without at least one (1) emissions inspector or one (1) emissions inspection station manager, then the station shall be prohibited from conducting emissions inspections.

4. Licensing.

A. Any person, firm, corporation, partnership or governmental entity requesting an emissions inspection station license shall submit a completed emissions inspection station application to the department or to the MSHP.

B. A vehicle emissions inspection station license shall be valid for twelve (12) months from the date of issuance. A completed emissions inspection station license application shall be accompanied by a check or money order for one hundred dollars (\$100) made payable to the Director of Revenue and submitted to either the Missouri Department of Natural Resources, Air Pollution Control Program, Attn: Inspection and Maintenance, PO Box 176, Jefferson City, MO 65102-0176 or the MSHP. Under no circumstances will cash be accepted for the license fee.

C. For the purposes of emissions and safety inspection license synchronization, a vehicle emissions inspection station license may be valid for fewer than twelve (12) months from the date of issuance. A completed emissions inspection station license application shall be accompanied by a check or money order made payable to the Director of Revenue and submitted to either the Missouri Department of Natural Resources, Air Pollution Control Program, Attn: Inspection and Maintenance, PO Box 176, Jefferson City, MO

65102-0176 or the MSHP. The check or money order shall submit the pro-rated fee of eight dollars and thirty-three cents (\$8.33) times the number of months between the month of the application, including the month of application, for the emissions inspection license and the month that the safety inspection license will be renewed. Under no circumstances will cash be accepted for the license fee.

D. Except as provided by subparagraph (3)(F)4.C. of this rule, station licenses are valid for a period of one (1) year from the date of issuance, unless the license is suspended or revoked by the department or the MSHP. The owners of licensed emissions inspection stations that are renewing their emissions inspection license shall complete the requirements of subparagraph (3)(F)4.B. of this rule.

E. Along with the application fee, applicants shall submit the following information on a form provided by either the department or the MSHP:

(I) Proof of liability insurance;

(II) The business' federal and state taxpayer identification number;

(III) The physical address of the inspection station;

(IV) The mailing address, if different from physical address, of the inspection station;

(V) The phone number and, if available, fax number of the inspection station;

(VI) The last name, first initial, and, if already licensed by the MSHP, the inspector number of the licensed emissions inspector(s) employed by that station; and

(VII) The first and last name of the emissions inspection station manager(s) employed by that station.

F. No license issued to an emissions inspection station may be transferred or used at any other location. Any change in ownership or location shall void the current station license. The department must be notified immediately when a change of ownership or location occurs or when a station discontinues operation. Businesses that change locations will be charged another license fee for the cost of the new license. Businesses that change owners will be treated as new licensees and charged another license fee for the new license.

G. When an emissions inspection station license has been suspended or revoked, or when a station discontinues operation, all emissions inspection supplies including, but not limited to, blank vehicle inspection reports and windshield stickers, shall be released on demand to the department or the MSHP. The failure to account for all inspection supplies will be sufficient cause for the department to not reinstate an emissions inspection station license. The department will refund the station for the number of pre-paid emissions inspections remaining on the inspection equipment at the time the station discontinues operation or chooses not to renew its emissions inspection license.

H. No emissions inspection station license will be issued to a spouse, child or children, son/daughter-in-law, employee or any person having an interest in the business for the privilege to conduct emissions inspections at the same location or in close proximity to the location of an emissions inspection station whose license is under suspension or revocation, unless the applicant can provide reasonable assurance that the licensee under suspension or revocation will not be employed, manage, assist in the station operation or otherwise benefit financially from the operation of the business in any way.

5. Operations.

A. Every emissions inspection must be performed according to the procedures described in this rule. Once an emissions inspection has begun, it shall be completed and shall not be terminated. A vehicle may not be passed or failed based upon a partial inspection.

B. A proper and complete emissions inspection shall consist of the OBD test method described in section (5) of this rule, the immediate printing and subsequent issuance of a vehicle inspection report to the motorist, and the immediate uploading of the emissions inspection data to the contractor's VID.

C. For each completed emissions inspection, the emissions inspection equipment shall print a vehicle inspection report that meets the requirements of subsections (4)(A) and (4)(B) of this rule.

D. All emissions inspection records shall be transmitted to the state's contractor as soon as an inspection is complete for the purpose of real time registration verification by the Department of Revenue and program oversight by the department or the MSHP.

E. The emissions inspection fee described in subsection (3)(D) of this rule shall be charged for each inspection performed, except at locations where the fleet operator is inspecting fleet vehicles at their own inspection facility.

F. Emissions inspection windshield stickers will be issued to an emissions inspection station by the MSHP, and can be printed by only that station. Emissions inspection windshield stickers shall be kept secure to prevent them from being lost, damaged or stolen. If windshield stickers are lost, damaged or stolen, the incident shall be reported immediately to the MSHP.

G. All emissions inspections must be conducted at the licensed emissions inspection station in the approved inspection area.

H. The inspection of a vehicle shall be made only by an individual who has a current, valid emissions inspector license.

I. No person without a current, valid emissions inspector license shall issue a vehicle inspection report or a windshield sticker.

J. No owner, operator or employee of an inspection station shall furnish, loan, give or sell a vehicle inspection report or windshield sticker to any person except those entitled to receive it.

K. If an emissions inspector or an emissions inspection station manager resigns or is dismissed, the emissions inspection station manager or station owner shall report these changes to the department immediately or within two (2) business days. The emissions inspection station manager or station owner shall complete an amendment form to inform the department of these changes in personnel.

L. All current manuals, bulletins or other rules issued by the department must be read and initialed by the station owner or operator and each emissions inspector. These resources must be available, either in printed or electronic form, at all times for ready reference by inspectors, department and MSHP staff.

M. If the department is asked to settle a difference of opinion between a vehicle owner and an emissions inspection station manager or emissions inspector concerning the inspection standards and procedures, the decisions of the department concerning emissions inspection standards and procedures will be final.

N. Emissions inspection station operators are permitted to advertise as official emissions inspection stations.

#### 6. Hours of operation.

A. The normal business hours of every public inspection station shall be at least eight (8) continuous hours per day, five (5) days per week.

B. Both inspection station managers and emissions inspectors are obligated to conduct emissions inspections and reinspections of vehicles during normal business hours.

(I) A vehicle shall be emissions inspected within a two (2)-hour period after being presented unless other vehicles are already being emissions inspected.

(II) A reinspection must begin within one (1) hour when a vehicle is presented during the twenty (20) consecutive-day period allowed by law for reinspections excluding Saturdays, Sundays and state holidays.

7. Display of inspection station and inspector licenses, sign and poster.

A. The department or the department's designee shall provide each licensed emissions inspection station with one (1) station license certificate. The station license certificate shall be framed under clean glass or plastic and displayed in a conspicuous location discernible to those presenting vehicles for emissions inspections.

B. The department or the department's designee shall provide each licensed emissions inspector with one (1) inspector license certificate. The emissions inspector licenses must be framed under clean glass or plastic and displayed in a conspicuous location discernible to those presenting vehicles for emissions inspections.

C. The department or the department's designee shall provide each licensed emissions inspection station one (1) official sign, made of metal or other durable material, to designate the station as an official emissions inspection station. The sign designating the station as an emissions inspection station shall be displayed in a location visible to motorists driving past the inspection station. Additional signs may be purchased for a fee equal to the cost to the state for each additional sign.

D. The department or the department's designee shall provide each licensed emissions inspection station with one (1) poster that informs the public that required repairs or corrections need not be made at that inspection station. The poster must be displayed in a conspicuous location discernible to those presenting vehicles for emissions inspections. Additional posters may be purchased for a fee equal to the cost to the state for each additional poster.

#### (G) Emissions Inspector Requirements.

1. Every person requesting a vehicle emissions inspector license shall submit a completed vehicle emissions inspector application to the department or the department's designee. The emissions inspector application shall include a facial photograph with dimensions of two inches (2") in length and two inches (2") in width.

2. All vehicle emissions inspectors must be at least eighteen (18) years of age and able to read and understand documents written in English. The emissions inspector written exam may include an oral component to evaluate the applicant's ability to read and understand documents written in English.

3. Emissions inspectors must pass a written test that demonstrates their knowledge of the fundamentals of OBD testing and repairs and the procedures of the emissions inspection program. A minimum grade of eighty percent (80%) is required to pass the written examination or reexamination.

A. The contractor shall design the training material and corresponding written exam and have the training material and written exam certified by the department prior to issuing the training material and written exam to potential emissions inspectors.

B. After emissions inspectors have passed the contractor's written exam, if they wish to also be licensed to conduct vehicle safety inspections, they must submit an application to the MSHP to take the safety inspection exam.

C. Currently licensed safety inspectors working at newly-licensed emissions inspection stations will only have to pass the written emissions exam conducted by the contractor.

4. Emissions inspectors must be thoroughly familiar with the emissions inspection equipment and demonstrate competency to either the department or the MSHP while performing an emissions inspection on a vehicle prior to the issuance of the inspector's license. A minimum grade of eighty percent (80%) is required to pass the practical examination or reexamination.

5. If the applicant meets the requirements of paragraphs (3)(G)1.–(3)(G)4. of this rule, an emissions inspector license will be issued without charge. Licenses are valid for a period of three (3) years from the date of issuance, or until suspended or revoked by the department or the MSHP. An emissions inspector whose license has been suspended or revoked shall be required to successfully complete the contractor's training program and pass the written and practical exams described in paragraphs (3)(G)3. and (3)(G)4. of this rule before the emissions license will be reinstated.

6. If the emissions inspector leaves the employment of one licensed emissions inspection station and enters the employment of another licensed emissions inspection station, the emissions inspection station manager of the station that the inspector is transferring to shall follow the procedures described in subparagraph (3)(F)5.K. of this rule. The emissions inspector's license is transferable with the

licensed emissions inspector, provided the emissions inspector's license has not expired.

7. An emissions inspector may be reexamined at any time, and if s/he fails the reexamination or refuses to be reexamined, the license issued to him/her shall be suspended. If a vehicle emissions inspector fails a reexamination, s/he cannot again be tested until a period of thirty (30) days has elapsed.

8. An emissions inspector license may be renewed before the expiration date or sixty (60) days after expiration without a reexamination. If the license has expired more than sixty (60) days before the license renewal application is submitted, a reexamination will be required. A vehicle emissions inspector does not have authority to conduct any inspections during the sixty (60)-day grace period unless the license has been properly renewed.

(J) Emissions Reinspection Procedures.

1. Emissions reinspection fee.

A. To qualify for one free reinspection, the vehicle owner or driver shall present the previous vehicle inspection report and the completed repair data sheet to the emissions inspection station that conducted the initial emissions inspection, within twenty (20) business days of the initial emissions inspection.

B. Reinspections occurring more than twenty (20) business days after the initial emissions inspection shall only be performed upon payment of the emissions inspection fee to the emissions inspection station, except at locations where the fleet operator is inspecting fleet vehicles at their own facility.

2. Reinspection procedure. Vehicles that fail the emissions inspection described in section (5) of this rule shall be reinspected according to the test method described in section (5) of this rule to determine if the repairs were effective for correcting failures on the previous inspection, thereby reducing or preventing an increase in present and future tailpipe or evaporative emissions.

3. If the subject vehicle passes a reinspection, then the procedures in paragraph (3)(H)3. of this rule shall be followed.

4. If the subject vehicle fails a reinspection, the vehicle owner may either:

A. Have more repairs performed on the vehicle and have the vehicle reinspected; or

B. Apply for a cost-based waiver according to the requirements in paragraphs (3)(K)1.–(3)(K)4. of this rule.

(M) Vehicle Registration. After a subject vehicle has passed the emissions inspection according to either paragraphs (3)(H)3. or (3)(J)3. of this rule, or received a waiver according to subsection (3)(K) of this rule, the contractor shall make electronically available to the Department of Revenue on a real time basis the emissions and any associated safety inspection compliance records to enable vehicle registration and compliance enforcement. Paper vehicle inspection reports may not be used for registration purposes, unless the contractor's real time vehicle inspection database is not providing inspection information to the Department of Revenue on a real time basis. The department shall expressly authorize, either in writing or by voice authorization, the use of the paper vehicle inspection reports by the Department of Revenue and/or its contract offices.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

**10 CSR 10-6.070** New Source Performance Regulations  
**is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2007 (32 MoReg 139). 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 written or verbal comments were received concerning this proposed amendment during the public comment period.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

**10 CSR 10-6.075** Maximum Achievable Control Technology  
Regulations **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2007 (32 MoReg 139–141). 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 written or verbal comments were received concerning this proposed amendment during the public comment period.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

**10 CSR 10-6.080** Emission Standards for Hazardous Air Pollutants  
**is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2007 (32 MoReg 141–142). 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 written or verbal comments were received concerning this proposed amendment during the public comment period.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 23—Division of Geology and Land Survey  
Chapter 3—Well Construction Code**

**ORDER OF RULEMAKING**

By the authority vested in the department’s Well Installation Board under section 256.606, RSMo 2000, the board amends a rule as follows:

**10 CSR 23-3.100 Sensitive Areas is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2007 (32 MoReg 320–322). 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 10—DEPARTMENT OF NATURAL RESOURCES  
Division 23—Division of Geology and Land Survey  
Chapter 5—Heat Pump Construction Code**

**ORDER OF RULEMAKING**

By the authority vested in the department’s Well Installation Board under section 256.606, RSMo 2000, the board amends a rule as follows:

**10 CSR 23-5.050 Construction Standards for Closed-Loop Heat Pump Wells is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2007 (32 MoReg 322). 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.



**T**his 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and  
Transportation Commission  
Chapter 25—Motor Carrier Operations**

**IN ADDITION**

**7 CSR 10-25.010 Skill Performance Evaluation Certificates for Commercial Drivers**

**PUBLIC NOTICE**

Public Notice and Request for Comments on Applications for Issuance of Skill Performance Evaluation Certificates to Intrastate Commercial Drivers with Diabetes Mellitus or Impaired Vision

**SUMMARY:** This notice publishes MoDOT's receipt of applications for the issuance of Skill Performance Evaluation (SPE) Certificates, from individuals who do not meet the physical qualification requirements in the Federal Motor Carrier Safety Regulations for drivers of commercial motor vehicles in Missouri intrastate commerce, because of impaired vision, or an established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. If granted, the SPE Certificates will authorize these individuals to qualify as drivers of commercial motor vehicles (CMVs), in intrastate commerce only, without meeting the vision standard prescribed in 49 CFR 391.41(b)(10), if applicable, or the diabetes standard prescribed in 49 CFR 391.41(b)(3).

**DATES:** Comments must be received at the address stated below, on or before July 31, 2007.

**ADDRESSES:** You may submit comments concerning an applicant, identified by the Application Number stated below, by any of the following methods:

- E-mail:* [Kathy.Hatfield@modot.mo.gov](mailto:Kathy.Hatfield@modot.mo.gov)
- Mail:* PO Box 893, Jefferson City, MO 65102-0893
- Hand Delivery:* 1320 Creek Trail Drive, Jefferson City, MO 65109
- Instructions:* All comments submitted must include the agency name and Application Number for this public notice. For detailed instructions on submitting comments, see the Public Participation heading of the Supplementary Information section of this notice. All comments received will be open and available for public inspection and MoDOT may publish those comments by any available means.

**COMMENTS RECEIVED  
BECOME MoDOT PUBLIC RECORD**

- By submitting any comments to MoDOT, the person authorizes MoDOT to publish those comments by any available means.
- Docket:* For access to the department's file, to read background documents or comments received, 1320 Creek Trail Drive, Jefferson City, MO 65109, between 7:30 a.m. and 4:00 p.m., CT Monday through Friday, except state holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathy Hatfield, Motor Carrier Specialist, (573) 522-9001, MoDOT Motor Carrier Services Division, PO Box 893, Jefferson City, MO 65102-0893. Office hours are from 7:30 a.m. to 4:00 p.m., CT, Monday through Friday, except state holidays.

**SUPPLEMENTARY INFORMATION:**

**Public Participation**

If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard.

**Background**

The individuals listed in this notice have recently filed applications requesting MoDOT to issue SPE Certificates to exempt them from the physical qualification requirements relating to vision in 49 CFR 391.41(b)(10), or to diabetes in 49 CFR 391.41(b)(3), which otherwise apply to drivers of CMVs in Missouri intrastate commerce.

Under section 622.555, *Missouri Revised Statutes* (RSMo) Supp. 2006, MoDOT may issue a Skill Performance Evaluation Certificate, for not more than a two (2)-year period, if it finds that the applicant has the ability, while operating CMVs, to maintain a level of safety that is equivalent to or greater than the driver qualification standards of 49 CFR 391.41. Upon application, MoDOT may renew an exemption upon expiration.

Accordingly, the agency will evaluate the qualifications of each applicant to determine whether issuing a SPE Certificate will comply with the statutory requirements and will achieve the required level of safety. If granted, the SPE Certificate is only applicable to intrastate transportation wholly within Missouri.

**Qualifications of Applicants**

**Application # MP060623027**

Renewal Applicant's Name & Age: Terry Ray Jones, 33  
Relevant Physical Condition: Mr. Jones's best-corrected visual acuity in his right eye is 20/20 Snellen and his left eye is 20/60 Snellen. He has been diagnosed as having amblyopia (lazy eye) in his left eye since birth.

Relevant Driving Experience: Mr. Jones has been employed since 2002 with KR Wislon Construction in Sullivan, MO. He has approximately 10 years of commercial motor vehicle driving experience. He currently has a Class A CDL. Drives personal vehicle(s) daily.  
Doctor's Opinion & Date: Following an examination in May 2007, his Optometrist certified, "In my medical opinion, Mr. Jones's visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle, and that the applicant's condition will not adversely affect his ability to operate a commercial motor vehicle safely."

Traffic Accidents and Violations: No accidents or violations on record.

**Request for Comments.**

The Missouri Department of Transportation, Motor Carrier Services Division, pursuant to section 622.555, RSMo, and rule 7 CSR 10-25.010, requests public comment from all interested persons on the applications for issuance of Skill Performance Evaluation Certificates described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in this notice.

Issued on: June 1, 2007

*Jan Skouby, Motor Carrier Services Director, Missouri Department of Transportation.*