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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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SECRETARY OF STATE

ROBIN CARNAHAN

Administrative Rules Division

James C. Kirkpatrick State Information Center
600 W. Main
Jefferson City, MO 65101
(573) 751-4015

DIRECTOR

WAYLENE W. HILES

.

SUPERVISING EDITOR

BARBARA MCDUGAL

.

EDITORS

CURTIS W. TREAT

SALLY L. REID

.

PUBLISHING STAFF

JACQUELINE D. WHITE

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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.

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

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

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

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions**

EMERGENCY RULE

12 CSR 10-110.621 Application of Sales Tax Exemption as Defined in Section 144.054, RSMo

PURPOSE: Section 144.054.2, RSMo, exempts from state sales and use tax and local use tax, but not local sales tax, electricity, gas (natural, artificial, or propane), water, coal, and energy sources used or consumed in manufacturing, processing, compounding, mining or producing any product or used in research and development related to manufacturing, processing, compounding, mining or producing any product or in the processing of recovered materials. This rule explains when this exemption applies.

EMERGENCY STATEMENT: The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rule. This emergency rule is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency rule informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS Senate Bill 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need

guidance regarding how these statutory changes impact them. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed October 10, 2007, effective October 20, 2007, expires April 16, 2008.

(1) In general, electricity, gas (natural, artificial, or propane), water, coal, and energy sources, chemicals, machinery, equipment, and materials used or consumed in manufacturing, processing, compounding, mining or producing any product, or used or consumed in the processing of recovered materials, or used in research and development related to manufacturing, processing, compounding, mining or producing any product is exempt from state sales and use tax and local use tax, but not local sales tax.

(2) Definition of Terms.

(A) Compounding—See 12 CSR 10-110.601.

(B) Energy source—See 12 CSR 10-110.601.

(C) Fabrication—See 12 CSR 10-111.010.

(D) Manufacturing—See 12 CSR 10-111.010.

(E) Material recovery processing plant—See 12 CSR 10-111.060.

(F) Mining—See 12 CSR 10-111.010.

(G) Producing—See 12 CSR 10-111.010.

(H) Recovered materials—See 12 CSR 10-111.060.

(3) Basic Application of Exemption.

(A) A taxpayer may claim the exemption for state sales and use tax and local use tax, but not local sales tax at the time of purchase. A taxpayer may not claim an exemption from local tax and then remit the tax directly to the department. It is the seller's responsibility to collect and remit the proper amount of local tax to the department.

(4) Exempt Examples.

(A) A manufacturer purchases propane to operate forklifts that move raw materials between production lines. The fuel is exempt from state sales and use tax and local use tax, but not local sales tax.

(B) A manufacturer uses electricity to run its equipment, maintain a moderate temperature in its production facility and to light the interior of the plant. The purchase of all of its electricity is exempt from state sales and use tax and local use tax, but not local sales tax.

(C) A manufacturer uses coal to fuel boilers to generate steam used to manufacture a product. The purchase of the coal is exempt from state sales and use tax and local use tax, but not local sales tax.

(D) A manufacturer purchases compressed gas used for welding a product. The purchase of the compressed gas is exempt from state sales and use tax and local use tax, but not local sales tax.

(E) A manufacturer uses water to cool a product during the manufacturing process. The manufacturer's purchase of water is exempt from state sales and use tax and local use tax, but not local sales tax.

(F) A manufacturer preserves its final product in a warehouse located at the production facility awaiting shipment. The manufacturer's purchase of energy to maintain the desired temperature and provide lighting inside the warehouse is exempt from state sales and use tax and local use tax, but not local sales tax.

(G) A construction company, who has been deemed a manufacturer, purchases fuel to be used in a concrete ready-mix truck. The manufacturer's purchase of fuel is subject to motor fuel tax, however if a refund claim is made, the refund is exempt from state sales tax, but not local sales tax.

(H) A cabinetmaker creates cabinets or counter tops from raw materials for sale to contractors or customers. The cabinetmaker's purchases of energy sources, chemicals, machinery, equipment, and

materials used or consumed in the manufacturing process are exempt from state sales and use tax and local use tax, but not local sales tax on items allowed under section 144.054, RSMo.

(I) A manufacturer builds mobile homes in its factory. The manufacturer's purchases of energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing process are exempt from state sales and use tax and local use tax, but not local sales tax on items allowed under section 144.054, RSMo.

(J) A manufacturer creates pre-fabricated steel and concrete products for sale to the public. The manufacturer's purchases of energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing process are exempt from state sales and use tax and local use tax, but not local sales tax on items allowed under section 144.054, RSMo.

(K) A hobby shop builds a frame to enclose photographs or pictures. The hobby shop's purchases of energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing process of building the frame are exempt from state sales and use tax and local use tax, but not local sales tax on items allowed under section 144.054, RSMo.

(L) A company uses energy to test manufacturing equipment as it is installed. This energy is exempt from state sales and use tax and local use tax, but not local sales tax.

(M) A commercial printer uses energy sources, chemicals, machinery, equipment, and materials in its process. These items are exempt from state sales and use tax and local use tax, but not local sales tax.

(N) A telecommunication company produces a wireless or landline based telephone call. The energy sources, chemicals, machinery, equipment, and materials used by the telecommunication company to manufacture the phone call are exempt from state sales and use tax and local use tax, but not local sales tax.

(O) A bakery creates baked goods for sale directly to the public or through retailers. The energy sources, chemicals, machinery, equipment, and materials used by the bakery are exempt from state sales and use tax and local use tax, but not local sales tax.

(P) A factory purchases safety equipment such as earplugs and goggles for use by the employees on the manufacturing floor. These items used by the employees who are manufacturing a product are exempt from state sales and use tax and local use tax, but not local sales tax.

(5) Taxable Examples.

(A) A restaurant preparing food for immediate consumption is not exempt. Therefore, all state and local taxes apply.

(B) A wireless company operates a customer support call center to assist its customers with questions. The call center is not exempt. Therefore, all state and local taxes apply.

(C) The construction of a road, building, or other fixed structure is not exempt. Therefore, all state and local taxes apply.

(D) The activities of a florist are not exempt. Therefore, all state and local taxes apply.

(E) An auto repair facility repairs vehicles by installing or replacing parts. This is not exempt. Therefore, all state and local taxes apply.

(F) A butcher shop receives a side of beef and cuts it into steaks and hamburger. This is not exempt. Therefore, all state and local taxes apply.

(G) A manufacturer preserves its final product in a warehouse not located at the production facility. The purchase of energy to maintain the desired temperature and provide lighting inside the warehouse is not exempt due to the location of the warehouse. Therefore, all state and local taxes apply.

(H) A cable television provider's purchase of energy is not exempt. Therefore, all state and local taxes apply.

filed Oct. 10, 2007, effective Oct. 20, 2007, expires April 16, 2008. A proposed rule, which covers the same material, is published in this issue of the Missouri Register.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2006.

EXECUTIVE ORDER

07-31

WHEREAS, high-speed Internet access in Missouri's rural communities is of great significance to economic development, agriculture, and education; and

WHEREAS, many rural communities in Missouri currently do not possess the information and communication infrastructure that enables its residents access to high-speed Internet; and

WHEREAS, aggressively pursuing high-speed Internet access in rural communities has the potential to markedly increase Missouri's economic growth by creating opportunities in rural areas that have not been available because of a lack of access; and

WHEREAS, it is a priority of the State of Missouri to support and promote widespread access to high-speed networks in Missouri's rural communities; and

WHEREAS, by combining the collective ideas of both the government, citizens and representatives of private industry, the technological needs of Missouri rural communities can be heard and solutions can be reached;

NOW, THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby create and establish the Rural High-Speed Internet Access Task Force.

Members of the Task Force shall be appointed by the Governor and shall represent individuals, organizations and industries impacted by availability of High-Speed Internet in Missouri. The Lieutenant Governor shall serve as Chair of the Task Force.

I hereby charge the Task Force with the following duties:

1. Assess the current level of high-speed Internet access available in Missouri;
2. Identify barriers to deployment to underserved areas including economic, geographic, regulatory, and market barriers;
3. Identify potential options to increase the deployment of high-speed Internet access in underserved communities;
4. Review best practices in other states to increase high-speed Internet access; and
5. Recommend statutory, regulatory, and policy changes needed to increase the availability of high-speed Internet services across the state.

Members of the Task Force shall receive no compensation for their service to the people of Missouri, but may seek reimbursement of their reasonable and necessary expenses incurred as members of the Task Force, in accordance with the rules and regulations of the Office of Administration.

The Task Force is assigned for administrative purposes to the Department of Economic Development. The Director of the Department of Economic Development or his designee shall be available to assist the Task Force as necessary, and shall provide the Task Force with any staff assistance the Task Force may require from time to time. All departments in the Executive Branch of Missouri state government are directed to cooperate with the Task Force, and shall provide such assistance to the Task Force as it shall request.

The Task Force shall submit to me no later than February 1, 2008, a report detailing the successful completion of its objectives and its recommendations.

The Task Force shall meet at the call of its Chair, and the Chair shall call a meeting as soon as practicable.

The Task Force shall expire on June 30, 2008 unless renewed by Executive Order.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 10th day of October, 2007.



Matt Blunt
Governor

ATTEST:



Robin Carnahan
Secretary of State

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

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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED AMENDMENT

4 CSR 240-40.020 Incident, Annual and Safety-Related Condition Reporting Requirements. The commission is amending sections (2), (4), (5), (6), (7), (9), (10), (11) and (13); and deleting the forms that follow this rule in the *Code of State Regulations*.

PURPOSE: This amendment proposes to amend the rule to conform to amendments of 49 CFR part 191, to incorporate by reference current versions of the incident and annual report forms, and to delete the outdated versions of the incident and annual report forms that are printed after this rule in the Code of State Regulations.

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

(2) Definitions. (191.3) As used in this rule and in the [RSPA] PHMSA Forms referenced in this rule—

(A) Administrator means the administrator of [the RSPA] PHMSA or [any person to whom authority in the matter concerned has been delegated by the Secretary of the United States Department of Transportation] **his or her delegate**;

(K) [RSPA] PHMSA means the [Research and Special Programs] **Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation**; and

(4) Missouri Reporting Requirements.

(C) Within thirty (30) days of a [telephonic] **telephone** notification made under subsection (4)(A) each gas operator shall submit U.S. Department of Transportation Form [RSPA] PHMSA F 7100.1 or [RSPA] PHMSA F 7100.2, as applicable, to designated commission personnel. *[A copy of both incident report forms is printed at the end of this rule.]* These two (2) **incident report forms for gas distribution systems (PHMSA F 7100.1, revised March 2004) and gas transmission and gathering systems (PHMSA F 7100.2, revised January 2002) are incorporated by reference. The forms are published by the US DOT Office of Pipeline Safety, Room 2103, 400 Seventh St. SW, Washington DC 20590. The forms are available at <http://ops.dot.gov/library/forms/forms.htm> or upon request from the pipeline safety program manager at the address given in section (5). The PHMSA F7100.1 form does not include any amendments or additions to the March 2004 version. The PHMSA F7100.2 form does not include any amendments or additions to the January 2002 version.** An incident report is required when an event causes the criteria listed in paragraphs (4)(A)1. or 2. to be met. Additional information required in subsections (6)(B) and (9)(B) (191.9[b] and 191.15[b]) shall apply.

(D) Federal incident and annual report required by this rule shall be submitted in duplicate to designated commission personnel as follows:

1. Federal incident reports required by section(s) (6) or (9), or both, (191.9 or 191.15, or both) shall be submitted as soon as practicable but not more than thirty (30) days after detection of the incident. Upon receipt and processing of these reports, the designated commission personnel, within ten (10) days, shall transmit one (1) copy to the [I]information [R]resources [M]anager at [RSPA] PHMSA; and

2. Annual reports required by section(s) (7) or (10), or both, (191.11 or 191.17, or both) shall be submitted no later than February 28 of each year. Upon receipt and processing these reports, the designated commission personnel shall transmit one (1) copy by March 15 to the [I]information [R]resources [M]anager at [RSPA] PHMSA.

(E) Safety-related condition reports required by section (12) (191.23) shall be submitted concurrently to the Associate Administrator, Office of Pipeline Safety at [RSPA] PHMSA and to designated commission personnel. A safety-related condition report can be submitted to the addresses provided in section (5) (191.7) or by telefacsimile (fax) as provided for in section (13).

(5) Addressee for Written Reports. (191.7) Incident, annual, and safety-related condition reports shall be submitted to designated

commission personnel as required by section (4). The address for the designated commission personnel is Pipeline Safety Program Manager, Missouri Public Service Commission, P./O./ Box 360, Jefferson City, MO 65102. As required by subsection (4)(E), safety-related condition reports must be submitted concurrently to the Associate Administrator, Office of Pipeline Safety at [RSPA/ PHMSA] by mail or by telefacsimile (fax). If submitted by mail, the address is Information Resources Manager, Office of Pipeline Safety, [Research and Special Programs Administration] Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room [8417] 2103, 400 Seventh Street S./W./, Washington, D.C. 20590. Safety-related condition reports may be submitted by fax as provided for in section (13).

(6) Distribution System—Federal Incident Report. (191.9)

(A) Except as provided in subsection (6)(C), each operator of a distribution pipeline system shall submit U.S. Department of Transportation Form [RSPA/ PHMSA] F 7100.1 to designated commission personnel in accordance with subsection (4)(D) following each incident required to be reported under section (3). [A copy of Form RSPA F 7100.1 is printed at the end of this rule.] The incident report form (revised March 2004) is incorporated by reference and is published by US DOT Office of Pipeline Safety, Room 2103, 400 7th St. SW, Washington DC 20590. The form is available at <http://ops.dot.gov/library/forms/forms.htm> or upon request from the pipeline safety program manager at the address given in section (5). The form does not include any amendments or additions to the March 2004 version.

(7) Distribution System—Annual Report. (191.11)

(A) Except as provided in subsection (7)(B), each operator of a distribution pipeline system shall submit an annual report for that system on U.S. Department of Transportation Form [RSPA/ PHMSA] F 7100.1-1. This report must be submitted each year as required by section (4) for the preceding calendar year. [A copy of Form RSPA F 7100.1-1 is printed at the end of this rule.] The annual report form (revised December 2005) is incorporated by reference and is published by US DOT Office of Pipeline Safety, Room 2103, 400 7th St. SW, Washington DC 20590. The form is available at <http://ops.dot.gov/library/forms/forms.htm> or upon request from the pipeline safety program manager at the address given in section (5). The form does not include any amendments or additions to the December 2005 version.

(9) Transmission and Gathering Systems—Federal Incident Report. (191.15)

(A) Except as provided in subsection (9)(C), each operator of a transmission or a gathering pipeline system shall submit U.S. Department of Transportation Form [RSPA/ PHMSA] F 7100.2 to designated commission personnel in accordance with subsection (4)(D) following each incident required to be reported under section (3). [A copy of Form RSPA F 7100.2 is printed at the end of this rule.] The incident report form (revised January 2002) is incorporated by reference and is published by US DOT Office of Pipeline Safety, Room 2103, 400 7th St. SW, Washington DC 20590. The form is available at <http://ops.dot.gov/library/forms/forms.htm> or upon request from the pipeline safety program manager at the address given in section (5). The form does not include any amendments or additions to the January 2002 version.

(10) Transmission and Gathering Systems—Annual Report. (191.17)

(A) Except as provided in subsection (10)(B), each operator of a transmission or a gathering pipeline system shall submit an annual report for that system on U.S. Department of Transportation Form [RSPA/ PHMSA] F7100.2-1. As required by section (4), this report must be submitted each year for the preceding calendar year. [A copy of Form RSPA F 7100.2-1 is printed at the end of this rule.] The annual report form (revised December 2005) is incor-

porated by reference and is published by US DOT Office of Pipeline Safety, Room 2103, 400 7th St. SW, Washington DC 20590. The form is available at <http://ops.dot.gov/library/forms/forms.htm> or upon request from the pipeline safety program manager at the address given in section (5). The form does not include any amendments or additions to the December 2005 version.

(11) Report Forms. (191.19) Copies of the prescribed report forms are available without charge upon request from the [Information Resource Manager's] pipeline safety program manager at the address given in section (5) [(191.7)]. Additional copies in this prescribed format may be reproduced and used if in the same size and kind of paper. In addition, the information required by these forms may be submitted by any other means that is acceptable to the administrator or pipeline safety program manager. [A copy of each report form is printed at the end of this rule.]

(13) Filing Safety-Related Condition Reports. (191.25)

(A) Each report of a safety-related condition under subsection (12)(A) [(191.23[a])] must be filed (received by the Associate Administrator, Office of Pipeline Safety at [RSPA/ PHMSA] and designated commission personnel as required by subsection (4)(E) in writing within five (5) working days (not including Saturday, Sunday, or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than ten (10) working days after the day a representative of the operator discovers the possibility of a condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (fax), dial (202) 366-7128 for the Associate Administrator, Office of Pipeline Safety and (573) [751-1847] 522-1946 for designated commission personnel.

AUTHORITY: sections 386.250, 386.310 and 393.140, RSMo 2000. Original rule filed Feb. 5, 1970, effective Feb. 26, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to Commission Case No. GX-2008-0032. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED AMENDMENT

4 CSR 240-40.030 Safety Standards—Transportation of Gas by Pipeline. The commission is amending sections (1), (3)–(13) and (16), adding section (17) and amending Appendices A, B, C and E.

PURPOSE: This amendment proposes to amend the rule to conform to amendments of 49 CFR part 192, to clarify the rule, and to make editorial changes.

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) General.

(A) [Scope of rule] **What Is the Scope of this Rule?** (192.1)

1. This rule prescribes minimum safety requirements for pipeline facilities and the transportation of gas in Missouri and under the jurisdiction of the commission. **A table of contents is provided in Appendix E, which is included herein (at the end of this rule).**

2. This rule does not apply to—

A. The gathering of gas [on private property outside of]—

(I) [An area within the limits of any incorporated or unincorporated city, town, or village] **Through a pipeline that operates at less than zero (0) pounds per square inch gauge (psig) (0 kPa);** or

(II) [Any designated residential or commercial area such as a subdivision, business or shopping center or community development] **Through a pipeline that is not a regulated onshore gathering line (as determined in (1)(E));** or

B. Any pipeline system that transports only petroleum gas or petroleum gas/air [mixture] mixtures to—

(I) Fewer than ten (10) customers, if no portion of the system is located in a public place; or

(II) A single customer, if the system is located entirely on the customer's premises (no matter if a portion of the system is located in a public place).

(B) Definitions. (192.3) As used in this rule—

1. Abandoned means permanently removed from service;

2. Administrator means the Administrator of the [Research and Special Programs Administration] **Pipeline and Hazardous Materials Safety Administration** of the United States Department of Transportation [or any person] to whom authority in the [matter concerned has] **matters of pipeline safety have been delegated by the Secretary of the United States Department of Transportation, or his or her delegate;**

3. Building means any structure that is regularly or periodically occupied by people;

4. Commission means the Missouri Public Service Commission[, and designated];

5. **Customer meter means the meter that measures the transfer of gas from an operator to a consumer;**

6. **Designated** commission personnel means the [P]pipeline [S]safety [P]program [M]manager at the address contained in 4 CSR 240-40.020(5) for required correspondence;

[5.] 7. Distribution line means a pipeline other than a gathering or transmission line[, and feeder];

8. **Feeder** line means a distribution line that has a maximum allowable operating pressure (MAOP) greater than 100 psig (689 kPa) gauge that produces hoop stresses less than twenty percent (20%) of specified minimum yield strength (SMYS);

[6.] 9. Follow-up inspection means an inspection performed after a repair procedure has been completed **in order** to determine the effectiveness of the repair and to ensure that all hazardous leaks in the area are corrected;

[7.] 10. Fuel line means the customer-owned gas piping downstream from the outlet of the customer meter or operator-owned pipeline, whichever is farther downstream;

[8.] 11. Gas means natural gas, flammable gas, manufactured gas, or gas which is toxic or corrosive;

[9.] 12. Gathering line means a pipeline that transports gas from a current production facility to a transmission line or main;

[10.] 13. High-pressure distribution system means a distribution system in which the gas pressure in the main is higher than an equivalent to fourteen inches (14") water column;

[11.] 14. Hoop stress means the stress in a pipe wall acting circumferentially in a plane perpendicular to the longitudinal axis of the pipe produced by the pressure in the pipe;

[12.] 15. Listed specification means a specification listed in subsection I. of Appendix B, **which is included herein (at the end of this rule);**

[13.] 16. Low-pressure distribution system means a distribution system in which the gas pressure in the main is less than or equal to an equivalent of fourteen inches (14") water column;

[14.] 17. Main means a distribution line that serves as a common source of supply for more than one (1) service line;

[15.] 18. Maximum actual operating pressure means the maximum pressure that occurs during normal operations over a period of one (1) year;

[16.] 19. Maximum allowable operating pressure (MAOP) means the maximum pressure at which a pipeline or segment of a pipeline may be operated under this rule;

[17.] 20. Municipality means a city, village or town;

[18.] 21. Operator means a person who engages in the transportation of gas[, and person];

22. **Person** means any individual, firm, joint venture, partnership, corporation, association, county, state, municipality, political subdivision, cooperative association or joint stock association, and including any trustee, receiver, assignee or personal representative of them;

[19.] 23. Petroleum gas means propane, propylene, butane (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 208 psi (1434 kPa) gauge at 100°F (38°C);

[20.] 24. Pipe means any pipe or tubing used in the transportation of gas, including pipe-type holders;

[21.] 25. Pipeline means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies;

[22.] 26. Pipeline facility means new and existing pipeline, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation;

[23.] 27. Reading means the highest sustained reading when testing in a bar hole or opening without induced ventilation;

[24.] 28. Service line means a distribution line that transports gas from a common source of supply to [a] a customer meter or the connection to a customer's piping, whichever is farther downstream, or b) the connection to a customer's piping if there is no customer meter. **A customer meter is the meter that measures the transfer of gas from an operator to a consumer] an individual customer, to two (2) adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter**

header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter;

29. Service regulator means the device on a service line that controls the pressure of gas delivered from a higher pressure to the pressure provided to the customer. A service regulator may serve one (1) customer or multiple customers through a meter header or manifold;

[25.] 30. SMYS means specified minimum yield strength is—

A. For steel pipe manufactured in accordance with a listed specification, the yield strength specified as a minimum in that specification; or

B. For steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with paragraph (3)(D)2. (192.107[b]);

[26.] 31. Sustained reading means the reading taken on a combustible gas indicator unit after adequately venting the test hole or opening;

[27.] 32. Transmission line means a pipeline, other than a gathering line, that—

A. Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center (A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas);

B. Operates at a hoop stress of twenty percent (20%) or more of SMYS; or

C. Transports gas within a storage field;

[28.] 33. Transportation of gas means the gathering, transmission, or distribution of gas by pipeline or the storage of gas in Missouri;

[29.] 34. Tunnel means a subsurface passageway large enough for a man to enter;

[30.] 35. Vault or manhole means a subsurface structure that a man can enter; and

[31.] 36. Yard line means an underground fuel line that transports gas from the service line to the customer's building. If multiple buildings are being served, building shall mean the building nearest to the connection to the service line. For purposes of this definition, if aboveground fuel line piping at the meter location is located within five feet (5') of a building being served by that meter, it shall be considered to the customer's building and no yard line exists. At meter locations where aboveground fuel line piping is located greater than five feet (5') from the building(s) being served, the underground fuel line from the meter to the entrance into the nearest building served by that meter shall be considered the yard line and any other lines are not considered yard lines.

(D) Incorporation By Reference of the Federal Regulation at 49 CFR 192.7. (192.7)

[1. Any documents or portions of them incorporated by reference in this rule are included in this rule as though set out in full. When only a portion of a document is incorporated by reference, the remainder is not incorporated in this rule.

2. All incorporated documents are available for inspection in the offices of the Missouri Public Service Commission, Truman State Office Building, 301 W. High, Jefferson City, Missouri. In addition, the documents are available at the addresses in Appendix A.

3. The full titles for the publications incorporated by reference in this rule are provided in Appendix A to this rule. Numbers in parentheses indicate applicable editions. Earlier editions of documents or editions of documents formerly listed in previous editions of Appendix A may be used for materials and components manufactured, designed or installed in accordance with those earlier editions at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR part 192 for a listing of the earlier

listed editions or documents.]

1. As set forth in the *Code of Federal Regulations* (CFR) dated October 1, 2006, and the subsequent amendment 192-103 (published in *Federal Register* on February 1, 2007, page 72 FR 4655), the federal regulation at 49 CFR 192.7 is incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to 49 CFR 192.7.

2. The *Code of Federal Regulations* and the *Federal Register* are published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, 2006 version of 49 CFR part 192 is available at www.access.gpo.gov/nara/cfr/cfr-table-search.html. The *Federal Register* publication on page 72 FR 4655 is available at www.gpoaccess.gov/fr/advanced.html.

3. The regulation at 49 CFR 192.7 provides a listing of the documents that are incorporated by reference partly or wholly in 49 CFR part 192, which is the federal counterpart and foundation for this rule. All incorporated materials are available for inspection in the U.S. Department of Transportation—Pipeline and Hazardous Materials Safety Administration, 400 Seventh Street, SW, Washington DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or 866-272-6272. In addition, the incorporated materials are available from the respective organizations listed in 49 CFR 192.7.

4. Federal amendment 192-94 (published in *Federal Register* on June 14, 2004, page 69 FR 32886) moved the listing of incorporated documents to 49 CFR 192.7 from 49 CFR part 192—Appendix A, which is now “Reserved.” This listing of documents was in Appendix A to this rule prior to the 2007 amendment of this rule. As of the 2007 amendment, Appendix A to this rule is also “Reserved” and included herein.

(E) Gathering Lines. (192.8 and 192.9) [Except as provided in subsections (1)(A) and (4)(HH), each operator of a gathering line must comply with the requirements of this rule applicable to transmission lines.]

1. As set forth in the *Code of Federal Regulations* (CFR) dated October 1, 2006, the federal regulations at 49 CFR 192.8 and 192.9 are incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to 49 CFR 192.8 and 192.9.

2. The *Code of Federal Regulations* is published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, 2006 version of 49 CFR part 192 is available at www.access.gpo.gov/nara/cfr/cfr-table-search.html.

3. The regulations at 49 CFR 192.8 and 192.9 provide the requirements for gathering lines. The requirements for offshore lines are not applicable to Missouri.

(G) [General.] What General Requirements Apply to Pipelines Regulated under this Rule? (192.13)

1. No person may operate a segment of pipeline [that is readied for service after March 12, 1971] listed in the first column that is readied for service after the date in the second column, unless—

A. The pipeline has been designed, installed, constructed, initially inspected and initially tested in accordance with this rule; or

B. The pipeline qualifies for use under this rule in accordance with subsection (1)(H). (192.14)

Pipeline	Date
Regulated onshore gathering line to which 49 CFR 192.8 and 192.9 did not apply until April 14, 2006 (see (1)(E))	March 15, 2007
All other pipelines	March 12, 1971

2. No person may operate a segment of pipeline listed in the first column that is replaced, relocated, or otherwise changed after [November 12, 1970,] the date in the second column, unless

that replacement, relocation or change has been made *[in accordance with]* **according to the requirements** in this rule.

<u>Pipeline</u>	<u>Date</u>
Regulated onshore gathering line to which 49 CFR 192.8 and 192.9 did not apply until April 14, 2006 (see (1)(E))	March 15, 2007
All other pipelines	November 12, 1970

3. Each operator shall maintain, modify as appropriate, and follow the plans, procedures and programs that it is required to establish under this rule.

4. This section and sections (9), (11)-~~[(16)]~~ (17) apply regardless of installation date. The requirements within other sections of this rule apply regardless of the installation date only when specifically stated as such.

(H) Conversion to Service Subject to this Rule. (192.14)

1. Except as provided in paragraph (1)(H)3., a steel pipeline previously used in service not subject to this rule qualifies for use under this rule if the operator prepares and follows a written procedure to carry out the following requirements:

A. The design, construction, operation and maintenance history of the pipeline must be reviewed and, where sufficient historical records are not available, appropriate tests must be performed to determine if the pipeline is in a satisfactory condition for safe operation;

B. The pipeline right-of-way, all aboveground segments of the pipeline and appropriately selected underground segments must be visually inspected for physical defects and operating conditions which reasonably could be expected to impair the strength or tightness of the pipeline;

C. All known unsafe defects and conditions must be corrected in accordance with this rule; and

D. The pipeline must be tested in accordance with section (10) to substantiate the maximum allowable operating pressure permitted by section (12).

2. Each operator must keep for the life of the pipeline a record of investigations, tests, repairs, replacements and alterations made under the requirements of paragraph (1)(H)1.

3. This paragraph lists situations where steel pipe may not be converted to service subject to this rule.

A. Steel yard lines that are not cathodically protected must be replaced under subsection (15)(C).

B. Buried steel fuel lines that are not cathodically protected may not be converted to a pipeline as defined in *[paragraph (1)(B)21.]* **subsection (1)(B)**, such as a service line or main.

C. Buried steel pipes that are not cathodically protected may not be converted to a service line.

D. Buried steel pipes that are not cathodically protected may not be converted to a main in Class 3 and Class 4 locations.

(J) Filing of Required Plans, Procedures and Programs. Each operator shall *[file with]* **submit to** designated commission personnel all plans, procedures and programs required by this rule (to include welding and joining procedures, construction standards, corrosion control procedures, *[replacement programs, operating and maintenance plans,]* damage prevention program[s and], emergency *[plans]* **procedures, public education program, operator qualification program, replacement programs, transmission integrity management program, and procedural manual for operations, maintenance, and emergencies**). In addition, each change must be *[filed with]* **submitted to** designated commission personnel within twenty (20) days after the change is made.

(3) Pipe Design.

(G) Longitudinal Joint Factor (E) for Steel Pipe. (192.113) The longitudinal joint factor to be used in the design formula in subsection (3)(C) ~~[(192.105)]~~ is determined in accordance with the following table:

Specification	Pipe Class	Longitudinal Joint Factor (E)
ASTM A 53/A53M	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	0.60
ASTM A 106	Seamless	1.00
ASTM A 333/A 333M	Seamless	1.00
	Electric resistance welded	1.00
ASTM A 381	Double submerged arc welded	1.00
ASTM A 671	Electric fusion welded	1.00
ASTM A 672	Electric fusion welded	1.00
ASTM A 691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace butt welded	0.60
	Other	Pipe over 4 inches (102 millimeters)
Other	Pipe 4 inches (102 millimeters) or less	0.60

If the type of longitudinal joint cannot be determined, the joint factor to be used must not exceed that designated for Other.

(I) Design of Plastic Pipe. (192.121) Subject to the limitations of subsection (3)(J) [(192.123)], the design pressure for plastic pipe is determined in accordance with either of the following formulas:

$$P = 2 S \frac{t}{(D-t)} \times 0.32$$

$$P = \frac{2 S}{(SDR-1)} \times 0.32$$

where

P = Design pressure, psi (kPa) gauge;

S = For thermoplastic pipe, the [long-term hydrostatic strength] hydrostatic design base (HDB) is determined in accordance with the listed specification at a temperature equal to 73°F (23°C), 100°F (38°C), 120°F (49°C) or 140°F (60°C), psi (kPa). In the absence of an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part D.2. of PPI TR-3/2004, HDB/PDB/SDB/MRS Policies (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D));

t = Specified wall thickness, in (mm);

D = Specified outside diameter, in (mm); and

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

(J) Design Limitations for Plastic Pipe. (192.123)

1. The design pressure may not exceed a gauge pressure of 100 psi (689 kPa) gauge for plastic pipe used in—

- A. Distribution systems; or
- B. Classes 3 and 4 locations.

2. Plastic pipe may not be used where operating temperatures of the pipe will be:

A. Below -20°F (-29°C), or -40°F (-40°C) if all pipe and pipeline components whose operating temperature will be below -20°F (-29°C) have a temperature rating by the manufacturer consistent with that operating temperature; or

B. Above the following applicable temperatures for thermoplastic pipe, the temperature at which the [long-term hydrostatic strength] HDB used in the design formula under subsection (3)(I)

(192.121) is determined. [However, if the pipe was manufactured before May 18, 1978, and its long-term hydrostatic strength was determined at 73°F (23°C), it may be used at temperatures up to 100°F (38°C).]

3. The wall thickness for thermoplastic pipe may not be less than 0.062 inches (1.57 millimeters).

(4) Design of Pipeline Components.

(B) General Requirements. (192.143)

1. Each component of a pipeline must be able to withstand operating pressures and other anticipated loadings without impairment of its serviceability with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service. However, if design based upon unit stresses is impractical for a particular component, design may be based upon a pressure rating established by the manufacturer by pressure testing that component or a prototype of the component.

2. The design and installation of pipeline components and facilities must meet applicable requirements for corrosion control found in section (9).

(C) Qualifying Metallic Components. (192.144) Notwithstanding any requirement of this section which incorporates by reference an edition of a document listed in [Appendix A] 49 CFR 192.7 (see (1)(D)) or Appendix B, a metallic component manufactured in accordance with any other edition of that document is qualified for use under this rule if—

1. It can be shown through visual inspection of the cleaned component that no defect exists which might impair the strength or tightness of the component; and

2. The edition of the document under which the component was manufactured has equal or more stringent requirements for the following as an edition of that document currently or previously listed in [Appendix A] 49 CFR 192.7 (see (1)(D)) or Appendix B:

- A. Pressure testing;
- B. Materials; and
- C. Pressure and temperature ratings.

(D) Valves. (192.145)

1. Except for cast iron and plastic valves, each valve must meet the minimum requirements[, or the equivalent,] of API 6D (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)), or to a national or international standard that provides an equivalent performance level. A valve may not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those requirements.

2. Each cast iron and plastic valve must comply with the following:

A. The valve must have a maximum service pressure rating for temperatures that equal or exceed the maximum service temperature;

B. The valve must be tested as part of the manufacturing, as follows:

(I) With the valve in the fully open position, the shell must be tested with no leakage to a pressure at least one and one-half (1.5) times the maximum service rating;

(II) After the shell test, the seat must be tested to a pressure not less than one and one-half (1.5) times the maximum service pressure rating. Except for swing check valves, test pressure during the seat test must be applied successively on each side of the closed valve with the opposite side open. No visible leakage is permitted; and

(III) After the last pressure test is completed, the valve must be operated through its full travel to demonstrate freedom from interference.

3. Each valve must be able to meet the anticipated operating conditions.

4. No valve having shell components made of ductile iron may be used at pressures exceeding eighty percent (80%) of the pressure ratings for comparable steel valves at their listed temperature. However, a valve having shell components made of ductile iron may be used at pressures up to eighty percent (80%) of the pressure ratings for comparable steel valves at their listed temperature, if—

A. The temperature-adjusted service pressure does not exceed 1,000 psi (7 MPa) gauge; *and*

B. Welding is not used on any ductile iron component in the fabrication of the valve shells or their assembly; **and**

C. No valve having pressure containing parts made of ductile iron may be used in the gas pipe components of compressor stations.

(HH) Passage of Internal Inspection Devices. (192.150)

1. Except as provided in paragraphs (4)(HH)2. and (4)(HH)3., each new *[or replacement segment of a]* transmission line **and each replacement of line pipe, valve, fitting, or other line component in a transmission line** must be designed and constructed to accommodate the passage of instrumented internal inspection devices. *[For the purposes of this subsection, replacement segment means the actual replaced line pipe, valve, fitting, or other line component.]*

2. This subsection does not apply to—

A. Manifolds;

B. Station piping such as at compressor stations, meter stations, or regulator stations;

C. Piping associated with storage facilities, other than a continuous run of transmission line between a compressor station and storage facilities;

D. Cross-overs;

E. Sizes of pipe for which an instrumented internal inspection device is not commercially available;

F. Transmission lines, operated in conjunction with a distribution system which are installed in Class 4 locations; and

G. Other piping that, under *[section 190.9 of 49 CFR part 190]* **49 CFR 190.9**, the administrator finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices.

3. An operator encountering emergencies, construction time constraints or other unforeseen construction problems need not construct a new or replacement segment of a transmission line to meet paragraph (4)(HH)1., if the operator determines and documents why an impracticability prohibits compliance with paragraph (4)(HH)1. Within thirty (30) days of discovering the emergency or construction problem the operator must petition, under *[section 190.9 of 49 CFR part 190]* **49 CFR 190.9**, for approval that design and construction to accommodate passage of instrumented internal inspection devices would be impracticable. If the petition is denied, within one (1) year after the date of the notice of the denial, the operator must modify that segment to allow passage of instrumented internal inspection devices.

(5) Welding of Steel in Pipelines.

(C) *[Qualification of]* Welding Procedures. (192.225)

1. *[Each welding procedure must be qualified under section IX of the ASME Boiler and Pressure Vessel Code or section 2 of API Standard 1104, whichever is appropriate to the function of the weld, except that a welding procedure qualified under an earlier edition previously listed in Appendix A to 49 CFR Part 192 may continue to be used but may not be requalified under the earlier edition.]* **Welding must be performed by a qualified welder in accordance with welding procedures qualified under section 5 of API Standard 1104 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)) or section IX of the ASME Boiler and Pressure Vessel Code “Welding and Brazing Qualifications” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)) to produce welds meeting the requirements of section (5) of this rule. A welding procedure qualified under an earlier edition of a standard listed in 49 CFR 192.7 (see (1)(D)) may continue to be used, but may not be requalified under the earlier edition. The quality of the test welds used to qualify welding procedures shall be determined by destructive testing in accordance with the applicable welding standard.**

2. Each welding procedure must be recorded in detail *[during]*, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

(D) Qualification of Welders. (192.227)

1. Except as provided in paragraph (5)(D)2. *[of this rule]*, each welder must be qualified in accordance with section *[3]* **6** of API Standard 1104 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)) or section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)). However, a welder qualified under an earlier edition of a standard than listed in *[Appendix A]* **49 CFR 192.7** (see (1)(D)) may weld but may not requalify under that earlier edition.

2. A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than twenty percent (20%) of SMYS by performing an acceptable test weld, for the process to be used, meeting at a minimum the test set forth in subsection I. of Appendix C, **which is included herein (at the end of this rule)**. Each welder who is to make a welded service line connection to a main must first perform an acceptable test weld under subsection II. of Appendix C as a requirement of the qualifying test.

(E) Limitations on Welders. (192.229)

1. No welder whose qualification is based on nondestructive testing may weld compressor station pipe and components.

2. No welder may weld with a particular welding process unless, within the preceding six (6) calendar months, s/he has welded with that process.

3. A welder qualified under paragraph (5)(D)1. (192.227[a])—

A. May not weld on pipe to be operated at a pressure that produces a hoop stress of twenty percent (20%) or more of SMYS unless within the preceding six (6) calendar months the welder has had one (1) weld tested and found acceptable under *[section 3 or 6 of API Standard 1104, except that a]* **the sections 6 or 9 of API Standard 1104 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D))**. Alternatively, welders may maintain an ongoing qualification status by performing welds tested and found acceptable under the above acceptance criteria at least twice each calendar year, but at intervals not exceeding seven and one-half (7 1/2) months. A welder qualified under an earlier edition *[previously]* of a standard listed in *[Appendix A to 49 CFR Part 192]* **49 CFR 192.7** (see (1)(D)) may weld but may not requalify under that earlier edition; and

B. May not weld on pipe to be operated at a pressure that produces a hoop stress of less than twenty percent (20%) of SMYS unless the welder is tested in accordance with subparagraph (5)(E)3.A. or requalifies under subparagraph (5)(E)4.A. or B.

4. A welder qualified under paragraph (5)(D)2. *[[192.227(b)]]* may not weld unless—

A. Within the preceding fifteen (15) calendar months, but at least once each calendar year, the welder has requalified under paragraph (5)(D)2. *[[192.227(b)]]*; or

B. Within the preceding seven and one-half (7 1/2) calendar months, but at least twice each calendar year, the welder has had—

(I) A production weld cut out, tested, and found acceptable in accordance with the qualifying test; or

(II) For welders who work only on service lines two inches (2") (51 millimeters) or smaller in diameter, two (2) sample welds tested and found acceptable in accordance with the test in subsection III. of Appendix C to this rule.

(I) Inspection and Test of Welds. (192.241)

1. Visual inspection of welding must be conducted by an individual qualified by appropriate training and experience to ensure that—

A. The welding is performed in accordance with the welding procedure; and

B. The weld is acceptable under paragraph (5)(I)3.

2. The welds on a pipeline to be operated at a pressure that produces a hoop stress of twenty percent (20%) or more of SMYS must be nondestructively tested in accordance with subsection (5)(J), *[[192.243]]* except that welds that are visually inspected and approved by a qualified welding inspector need not be nondestructively tested if—

A. The pipe has a nominal diameter of less than six inches (6") (152 millimeters); or

B. The pipeline is to be operated at a pressure that produces a hoop stress of less than forty percent (40%) of SMYS and the welds are so limited in number that nondestructive testing is impractical.

3. The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in section *[6] 9* of API Standard 1104 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)). However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if *[the]* Appendix A to API Standard 1104 applies to the weld, the acceptability of the weld may be further determined under that Appendix.

(6) Joining of Materials Other Than by Welding.

(G) Plastic Pipe—Qualifying Joining Procedures. (192.283)

1. Heat fusion, solvent cement and adhesive joints. Before any written procedure established under paragraph (6)(B)2. *[[192.273(b)]]* is used for making plastic pipe joints by a heat fusion, solvent cement or adhesive method, the procedure must be qualified by subjecting specimen joints made according to the procedure to the following tests:

A. The burst test requirements of—

(I) In the case of thermoplastic pipe, paragraph 6.6 (Sustained Pressure Test) or paragraph 6.7 (Minimum Hydrostatic Burst Pressure *[[Quick Burst]]*) or paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2513 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D));

(II) *[In the case of thermosetting plastic pipe, paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or paragraph 8.9 (Sustained Static Pressure Tests) of ASTM D2517] (Reserved)*; or

(III) In the case of electrofusion fittings for polyethylene pipe and tubing, paragraph 9.1 (Minimum Hydraulic Burst Pressure Test), paragraph 9.2 (Sustained Pressure Test), paragraph 9.3 (Tensile Strength Test), or paragraph 9.4 (Joint Integrity Tests) of ASTM Designation F1055 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D));

B. For procedures intended for lateral pipe connections, subject a specimen joint made from pipe sections joined at right angles according to the procedure to a force on the lateral pipe until failure occurs in the specimen. If failure initiates outside the joint area, the

procedure qualifies for use; and

C. For procedures intended for nonlateral pipe connections, follow the tensile test requirements of ASTM D638 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)), except that the test may be conducted at ambient temperature and humidity. If the specimen elongates no less than twenty-five percent (25%) or failure initiates outside the joint area, the procedure qualifies for use.

2. Mechanical joints. Before any written procedure established under paragraph (6)(B)2. *[[192.273(b)]]* is used for making mechanical plastic pipe joints that are designed to withstand tensile forces, the procedure must be qualified by subjecting five (5) specimen joints made according to the procedure to the following tensile test:

A. Use an apparatus for the test as specified in ASTM D638 (except for conditioning), (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D));

B. The specimen must be of such length that the distance between the grips of the apparatus and the end of the stiffener does not affect the joint strength;

C. The speed of testing is 0.20 inches (5.0 mm) per minute, plus or minus twenty-five percent (25%);

D. Pipe specimens less than *[4] four inches (4")* (102 mm) in diameter are qualified if the pipe yields to an elongation of no less than twenty-five percent (25%) or failure initiates outside the joint area;

E. Pipe specimens *[4] four inches (4")* (102 mm) and larger in diameter shall be pulled until the pipe is subjected to a tensile stress equal to or greater than the maximum thermal stress that would be produced by a temperature change of 100°F (38°C) or until the pipe is pulled from the fitting. If the pipe pulls from the fitting, the lowest value of the five (5) test results or the manufacturer's rating, whichever is lower must be used in the design calculations for stress;

F. Each specimen that fails at the grips must be retested using new pipe; and

G. Results obtained pertain only to the specific outside diameter and material of the pipe tested, except that testing of a heavier wall pipe may be used to qualify pipe of the same material but with a lesser wall thickness.

3. A copy of each written procedure being used for joining plastic pipe must be available to the persons making and inspecting joints.

4. Pipe or fittings manufactured before July 1, 1980 may be used in accordance with procedures that the manufacturer certifies will produce a joint as strong as the pipe.

(H) Plastic Pipe—Qualifying Persons to Make Joints. (192.285)

1. No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by—

A. Appropriate training or experience in the use of the procedure; and

B. Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (6)(H)2.

2. The specimen joint must be—

A. Visually examined during and after assembly or joining and found to have the same appearance as a joint or photographs of a joint that is acceptable under the procedure; and

B. In the case of a heat fusion, solvent cement or adhesive joint—

(I) Tested under any one (1) of the test methods listed under paragraph/s/ (6)(G)1. (192.283[a]) applicable to the type of joint and material being tested;

(II) Examined by ultrasonic inspection and found not to contain flaws that would cause failure; or

(III) Cut into at least three (3) longitudinal straps, each of which is—

(a) Visually examined and found not to contain voids or discontinuities on the cut surfaces of the joint area; and

(b) Deformed by bending, torque or impact and, if failure occurs, it must not initiate in the joint area.

3. A person must be requalified under an applicable procedure if during any twelve (12)-month period that person—

- A. Does not make any joints under that procedure; or
- B. Has three (3) joints or three percent (3%) of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under subsection (10)(G). (192.513)/.]

4. Each operator shall establish a method to determine that each person making joints in plastic pipelines in *[his/her]* the operator's system is qualified in accordance with this subsection.

(7) General Construction Requirements for Transmission Lines and Mains.

(K) Installation of Plastic Pipe. (192.321)

1. Plastic pipe must be installed below ground level *[unless otherwise permitted by paragraph (7)(K)7.]* except as provided by paragraphs (7)(K)7. and (7)(K)8.

2. Plastic pipe that is installed in a vault or any other below grade enclosure must be completely encased in gastight metal pipe and fittings that are adequately protected from corrosion.

3. Plastic pipe must be installed so as to minimize shear or tensile stresses.

4. Thermoplastic pipe that is not encased must have a minimum wall thickness of 0.090 inches (0.090") (2.29 millimeters), except that pipe with an outside diameter of 0.875 inches (0.875") (22.3 millimeters) or less may have a minimum wall thickness of 0.062 inches (0.062") (1.58 millimeters).

5. Plastic pipe that is not encased must have an electrically conductive wire or other means of locating the pipe while it is underground. **Tracer wire may not be wrapped around the pipe and contact with the pipe must be minimized but is not prohibited. Tracer wire or other metallic elements installed for pipe locating purposes must be resistant to corrosion damage, either by use of coated copper wire or by other means.**

6. Plastic pipe that is being encased must be inserted into the casing pipe in a manner that will protect the plastic. The leading end of the plastic must be closed before insertion.

7. Uncased plastic pipe may be temporarily installed above-ground level under the following conditions:

A. The operator must be able to demonstrate that the cumulative aboveground exposure of the pipe does not exceed the manufacturer's recommended maximum period of exposure or two (2) years, whichever is less;

B. The pipe either is located where damage by external forces is unlikely or is otherwise protected against such damage; and

C. The pipe adequately resists exposure to ultraviolet light and high and low temperatures.

8. Plastic pipe may be installed on bridges provided that it is:

A. Installed with protection from mechanical damage, such as installation in a metallic casing;

B. Protected from ultraviolet radiation; and

C. Not allowed to exceed the pipe temperature limits specified in subsection (3)(J).

(N) Cover. (192.327)

1. Except as provided in paragraphs (7)(N)3. and 5., each buried transmission line must be installed with a minimum cover as follows:

Location	Normal Soil inches (millimeters)	Consolidated Rock inches (millimeters)
Class 1 locations	30 (762)	18 (457)
Class 2, 3 and 4 locations	36 (914)	24 (610)
Drainage ditches of public roads and railroad crossings	36 (914)	24 (610)

2. Except as provided in paragraphs (7)(N)3. and 4., each buried main must be installed with at least twenty-four inches (24") (610 millimeters) of cover.

3. Where an underground structure prevents the installation of a transmission line or main with the minimum cover, the transmission line or main may be installed with less cover if it is provided with additional protection to withstand anticipated external loads.

4. A main may be installed with less than twenty-four inches (24") (610 millimeters) of cover if the law of the state or municipality—

A. Establishes a minimum cover of less than twenty-four inches (24") (610 millimeters);

B. Requires that mains be installed in a common trench with other utility lines; and

C. Provides adequately for prevention of damage to the pipe by external forces.

5. Except as provided in paragraph (7)(N)3., all pipe installed in a navigable river, stream or harbor must be installed with a minimum cover of forty-eight inches (48") (1219 millimeters) in soil or twenty-four inches (24") (610 millimeters) in consolidated rock between the top of the pipe and the **underwater** natural bottom (as determined by recognized and generally accepted practices).

(8) Customer Meters, Service Regulators and Service Lines.

(C) Customer Meters and Regulators—Location. (192.353)

1. Each meter and service regulator, whether inside or outside of a building, must be installed in a readily accessible location and be protected from corrosion, *anticipated vehicular traffic* and other damage, **including, if installed outside a building, vehicular damage that may be anticipated.** However, the upstream regulator in a series may be buried.

2. Each service regulator installed within a building must be located as near as practical to the point of service line entrance.

3. Each meter installed within a building must be located in a ventilated place and not less than three feet (3') (914 millimeters) from any source of ignition or any source of heat which might damage the meter.

4. Where feasible, the upstream regulator in a series must be located outside the building, unless it is located in a separate metering or regulating building.

(G) Service Lines—Installation. (192.361)

1. Depth. Each buried service line must be installed with at least twelve inches (12") (305 millimeters) of cover in private property and at least eighteen inches (18") (457 millimeters) of cover in streets and roads, except a plastic service line that is not inserted in a metallic casing must be installed with at least eighteen inches (18") (457 millimeters) of cover in all locations. However, where an underground structure prevents installation at those depths, the service line must be able to withstand any anticipated external load.

2. Support and backfill. Each service line must be properly supported on undisturbed or well-compacted soil, and material used for backfill must be free of materials that could damage the pipe or its coating.

3. Grading for drainage. Where condensate in the gas might cause interruption in the gas supply to the customer, the service line must be graded so as to drain into the main or into drips at the low points in the service line.

4. Protection against piping strain and external loading. Each service line must be installed so as to minimize anticipated piping strain and external loading.

5. Installation of service lines into buildings. Each underground service line installed below grade through the outer foundation wall of a building must—

A. In the case of a metal service line, be protected against corrosion;

B. In the case of a plastic service line, be protected from shearing action and backfill settlement; and

C. Be sealed at the foundation wall to prevent leakage into the building.

6. Installation of service lines under buildings. Where an underground service line is installed under a building—

A. It must be encased in a gastight conduit;

B. The conduit and the service line must extend, if the service line supplies the building it underlies, into a normally usable and accessible part of the building; and

C. The space between the conduit and the service line must be sealed to prevent gas leakage into the building and, if the conduit is sealed at both ends, a vent line from the annular space must extend to a point where gas would not be a hazard, and extend above grade, terminating in a rain and insect resistant fitting.

7. Locating underground service lines. Each underground nonmetallic service line that is not encased must have a means of locating the pipe that complies with paragraph (7)(K)5.

(M) Service Lines—Plastic. (192.375)

1. Each plastic service line outside a building must be installed below ground level, except that—

A. It may be installed in accordance with paragraph (7)(K)7.; and

B. It may terminate aboveground level and outside the building, if—

(I) The aboveground level part of the plastic service line is protected against deterioration and external damage; and

(II) The plastic service line is not used to support external loads.

2. Plastic service lines shall not be installed inside a building.

3. Plastic pipe that is installed in a below grade vault or pit must be completely encased in gastight metal pipe and fittings that are adequately protected from corrosion.

4. Plastic pipe must be installed so as to minimize shear or tensile stresses.

5. Thermoplastic pipe that is not encased must have a minimum wall thickness of 0.090 inches (0.090"), except that pipe with an outside diameter of 0.875 inches (0.875") or less may have a minimum wall thickness of 0.062 inches (0.062").

[6. Plastic pipe that is not encased must have an electrically conductive wire or other means of locating the pipe while it is underground.]

[7.] 6. Plastic pipe that is being encased must be inserted into the casing pipe in a manner that will protect the plastic. The leading end of the plastic must be closed before insertion.

(9) Requirements for Corrosion Control.

(B) *[Applicability to Converted Pipelines.] How Does this Subsection Apply to Converted Pipelines and Regulated Onshore Gathering Lines?* (192.452)

1. Converted pipelines. Notwithstanding the date the pipeline was installed or any earlier deadlines for compliance, each pipeline which qualifies for use under this rule in accordance with subsection (1)(H) *[(192.14)]* must have a cathodic protection system designed to protect the pipeline in its entirety in accordance with subsection (9)(H) *[(192.463)]* within one (1) year after the pipeline is readied for service.

2. Regulated onshore gathering lines. For any regulated onshore gathering line to which 49 CFR 192.8 and 192.9 did not apply until April 14, 2006, and for any gathering line that becomes a regulated onshore gathering line under (1)(E) because of a change in class location or increase in dwelling density:

A. The requirements of this section specifically applicable to pipelines installed before August 1, 1971, apply to the gathering line regardless of the date the pipeline was actually installed; and

B. The requirements of this section specifically applicable to pipelines installed after July 31, 1971, apply only if the pipeline substantially meets those requirements.

(E) External Corrosion Control—Buried or Submerged Pipelines Installed Before August 1, 1971. (192.457)

1. Each buried or submerged transmission line and each buried or submerged feeder line or main in excess of one hundred feet

(100') installed before August 1, 1971, that has an effective external coating must be cathodically protected along the entire area that is effectively coated, in accordance with this section unless definitely scheduled in a replacement program in subsection (15)(E). For the purposes of this section, a pipeline does not have an effective external coating if its cathodic protection current requirements are substantially the same as if it were bare. The operator shall make tests to determine the cathodic protection current requirements.

2. Except for cast iron or ductile iron, each of the following buried or submerged pipelines installed before August 1, 1971, must be cathodically protected in accordance with this section in areas in which active corrosion is found:

A. Bare or ineffectively coated transmission lines;

B. Effectively coated feeder lines and mains not in excess of one hundred feet (100');

C. Bare or ineffectively coated feeder lines or mains; and

D. Bare or coated service lines, except that steel service lines must be replaced as required by subsection (15)(C). *[The operator shall determine the areas of active corrosion by electrical survey. Where electrical survey is impractical, the areas of active corrosion shall be determined by the study of corrosion and leak history records, and by instrument leak detection survey. After this initial evaluation for areas of active corrosion, each operator must conduct reevaluations as required by paragraph (9)(I)5.]*

3. For the purpose of this section, active corrosion means continuing corrosion which, unless controlled, could result in a condition that is detrimental to public safety.]

(H) External Corrosion Control—Cathodic Protection. (192.463)

1. Each cathodic protection system required by this section must provide a level of cathodic protection that complies with one (1) or more of the applicable criteria contained in Appendix D, **which is included herein (at the end of this rule).**

2. If amphoteric metals are included in a buried or submerged pipeline containing a metal of different anodic potential—

A. The amphoteric metals must be electrically isolated from the remainder of the pipeline and cathodically protected; or

B. The entire buried or submerged pipeline must be cathodically protected at a cathodic potential that meets the requirements of Appendix D for amphoteric metals.

3. The amount of cathodic protection must be controlled so as not to damage the protective coating or the pipe.

(I) External Corrosion Control—Monitoring. (192.465)

1. Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding fifteen (15) months, to determine whether the cathodic protection meets the requirements of subsection (9)(H). (192.463) However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of one hundred feet (100') (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least twenty percent (20%) of these protected structures, distributed over the entire system, must be surveyed each calendar year, with a different twenty percent (20%) checked each subsequent year, so that the entire system is tested in each five (5)-year period. Each short section of metallic pipe less than one hundred feet (100') (30 meters) in length installed and cathodically protected in accordance with paragraph (9)(R)2. (192.483[b]), each segment of pipe cathodically protected in accordance with paragraph (9)(R)3. (192.483[c]) and each electrically isolated metallic fitting not meeting the requirements of paragraph (9)(D)5. (192.455[f]) must be monitored at a minimum rate of ten percent (10%) each calendar year, with a different ten percent (10%) checked each subsequent year, so that the entire system is tested every ten (10) years.

2. Each cathodic protection rectifier or other impressed current power source must be inspected six (6) times each calendar year but with intervals not exceeding two and one-half (2 1/2) months to ensure that it is operating.

3. Each reverse current switch, each diode and each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six (6) times each calendar year, but with intervals not exceeding two and one-half (2 1/2) months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding fifteen (15) months.

4. Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring required in paragraphs (9)(I)1.-3. Corrective measures must be completed within six (6) months unless otherwise approved by designated commission personnel.

5. After the initial evaluation required by paragraphs (9)(D)2. *[(192.455(c))]* and *[paragraph] (9)(E)2. [(192.457(b))]*, each operator, *at intervals not exceeding three (3) years, shall must, not less than every three (3) years at intervals not exceeding thirty-nine (39) months,* reevaluate its unprotected pipelines and cathodically protect them in accordance with *[this]* section (9) in areas in which active corrosion is found, except that unprotected steel service lines must be replaced as required by subsection (15)(C). The operator *[shall]* **must** determine the areas of active corrosion by electrical survey *[at intervals not exceeding three (3) years. Where]. However, on distribution lines and where an electrical survey is impractical on transmission lines, [the] areas of active corrosion [shall] may be determined by [the study of corrosion and leak history records] other means that include review and analysis of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, the pipeline environment, and by instrument leak detection [survey at intervals not exceeding three (3) years] surveys (see subsections (13)(D) and (13)(M)). When the operator conducts electrical surveys, the operator must demonstrate that the surveys effectively identify areas of active corrosion. **In this subsection and subsection (9)(E):***

A. Active corrosion means continuing corrosion which, unless controlled, could result in a condition that is detrimental to public safety;

B. Electrical survey means a series of closely spaced pipe-to-soil readings over a pipeline that are subsequently analyzed to identify locations where a corrosive current is leaving the pipeline; and

C. Pipeline environment includes soil resistivity (high or low), soil moisture (wet or dry), soil contaminants that may promote corrosive activity, and other known conditions that could affect the probability of active corrosion.

(N) Internal Corrosion Control—General and Monitoring. (192.475 and 192.477)

1. Corrosive gas may not be transported by pipeline, unless the corrosive effect of the gas on the pipeline has been investigated and steps have been taken to minimize internal corrosion.

2. Whenever any pipe is removed from a pipeline for any reason, the internal surface must be inspected for evidence of corrosion. If internal corrosion is found—

A. The adjacent pipe must be investigated to determine the extent of internal corrosion;

B. Replacement must be made to the extent required by the applicable paragraphs of subsections (9)(S), (T) or (U) (192.485, 192.487 or 192.489); and

C. Steps must be taken to minimize the internal corrosion.

3. Gas containing more than 0.25 grain of hydrogen sulfide per one hundred (100) cubic feet (5.8 milligrams/m³) at standard conditions (four (4) parts per million) may not be stored in pipe-type or bottle-type holders.

4. **Monitoring. (192.477)** If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two (2) times each calendar year, but with intervals not exceeding seven and one-half (7 1/2) months.

(O) Internal Corrosion Control—*[Monitoring. (192.477)* If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two (2) times each calendar year, but with intervals not exceeding seven and one-half (7 1/2) months.] **Design and Construction of Transmission Line. (192.476)**

1. **Design and construction.** Except as provided in paragraph (9)(O)2., each new transmission line and each replacement of line pipe, valve, fitting, or other line component in a transmission line must have features incorporated into its design and construction to reduce the risk of internal corrosion. At a minimum, unless it is impracticable or unnecessary to do so, each new transmission line or replacement of line pipe, valve, fitting, or other line component in a transmission line must:

A. Be configured to reduce the risk that liquids will collect in the line;

B. Have effective liquid removal features whenever the configuration would allow liquids to collect; and

C. Allow use of devices for monitoring internal corrosion at locations with significant potential for internal corrosion.

2. **Exceptions to applicability.** The design and construction requirements of paragraph (9)(O)1. do not apply to pipeline installed or line pipe, valve, fitting or other line component replaced before May 23, 2007.

3. **Change to existing transmission line.** When an operator changes the configuration of a transmission line, the operator must evaluate the impact of the change on internal corrosion risk to the downstream portion of an existing transmission line and provide for removal of liquids and monitoring of internal corrosion as appropriate.

4. **Records.** An operator must maintain records demonstrating compliance with this subsection. Provided the records show why incorporating design features addressing (9)(O)1.A., (9)(O)1.B., or (9)(O)1.C. is impracticable or unnecessary, an operator may fulfill this requirement through written procedures supported by as-built drawings or other construction records.

(P) Atmospheric Corrosion Control—General. (192.479)

1. Pipelines installed after July 31, 1971. Each aboveground pipeline or portion of a pipeline installed after July 31, 1971, that is exposed to the atmosphere must be cleaned and *[either]* coated *[or jacketed]* with a material suitable for the prevention of atmospheric corrosion. An operator need not comply with this paragraph for an inside pipeline, if the operator can demonstrate by test, investigation or experience *[in the area of application, that a corrosive atmosphere does not exist.]* appropriate to the inside environment of the pipeline that corrosion will—

A. Only be a light surface oxide; or

B. Not result in pitting of the base metal before the next scheduled inspection.

2. Pipelines installed before August 1, 1971. Each *[operator having an]* aboveground pipeline or portion of a pipeline installed before August 1, 1971, that is exposed to the atmosphere, *shall—*

A. Determine the areas of atmospheric corrosion on the pipeline;

B. If atmospheric corrosion is found, take remedial measures to the extent required by the applicable paragraphs of subsections (9)(S), (T), or (U) (192.485, 192.487 or 192.489); and

C. Clean and either coat or jacket the areas of atmospheric corrosion on the pipeline, must be cleaned and coated with a material suitable for the prevention of atmospheric corrosion. This applies to all portions of pipelines in soil-to-air interfaces. For portions of pipelines that are not in soil-to-air interfaces, the operator need not protect from atmospheric corrosion any pipeline for which the operator demonstrates by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will—

A. Only be a light surface oxide; or

B. Not affect the safe operation of the pipeline before the next scheduled inspection.

3. For the purposes of this [section] subsection and subsection (9)(Q), atmospheric corrosion means corrosion that has resulted in pitting of the base metal.

(Q) Atmospheric Corrosion Control—Monitoring. (192.481) [After meeting the requirements of paragraphs (9)(P)1. and 2 (192.479[a] and [b], each operator, at intervals not exceeding three (3) years, shall reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion. When remedial action is necessary, corrective actions must be completed within twelve (12) months unless otherwise approved by designated commission personnel.]

1. Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every three (3) calendar years, but with intervals not exceeding thirty-nine (39) months. (Atmospheric corrosion is defined in paragraph (9)(P)3.)

2. During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, at deck penetrations, and in spans over water.

3. If atmospheric corrosion is found during an inspection, the operator must provide protection against the corrosion as required by subsection (9)(P) within twelve (12) months unless otherwise approved by designated commission personnel.

(W) Direct Assessment. (192.490) Each operator that uses direct assessment as defined in 49 CFR 192.903 (see section (16)) on a transmission line made primarily of steel or iron to evaluate the effects of a threat in the first column must carry out the direct assessment according to the standard listed in the second column. These standards do not apply to methods associated with direct assessment, such as close interval surveys, voltage gradient surveys, or examination of exposed pipelines, when used separately from the direct assessment process.

Threat	Standard ¹ (see section (16))
External corrosion	49 CFR 192.925 ²
Internal corrosion in pipelines that transport dry gas	49 CFR 192.927
Stress corrosion cracking	49 CFR 192.929

¹For lines not subject to 49 CFR part 192, subpart O, the terms “covered segment” and “covered pipeline segment” in 49 CFR 192.925, 192.927, and 192.929 refer to the pipeline segment on which direct assessment is performed.

²In 49 CFR 192.925[b], the provision regarding detection of coating damage applies only to pipelines subject to 49 CFR part 192, subpart O.

(10) Test Requirements.

(C) Strength Test Requirements for Steel Pipeline to Operate at a Hoop Stress of Thirty Percent (30%) or More of SMYS. (192.505)

1. Except for service lines, each segment of a steel pipeline that is to operate at a hoop stress of thirty percent (30%) or more of SMYS must be strength tested in accordance with this subsection to substantiate the proposed maximum allowable operating pressure. In addition, in a Class 1 or Class 2 location, if there is a building intended for human occupancy within three hundred feet (300') (91 meters) of a pipeline, a hydrostatic test must be conducted to a test pressure of at least one hundred twenty-five percent (125%) of maximum operating pressure on that segment of the pipeline within three hundred feet (300') (91 meters) of such a building, but in no event may the test section be less than six hundred feet (600') (183 meters) unless the length of the newly installed or relocated pipe is less than six hundred feet (600') (183 meters). However, if the buildings are

evacuated while the hoop stress exceeds fifty percent (50%) of SMYS, air or inert gas may be used as the test medium.

2. In a Class 1 or Class 2 location, each compressor station, regulator station and measuring station must be tested to at least Class 3 location test requirements.

3. Except as provided in paragraph (10)(C)5., the strength test must be conducted by maintaining the pressure at or above the test pressure for at least eight (8) hours.

4. If a component other than pipe is the only item being replaced or added to a pipeline, a strength test after installation is not required, if the manufacturer of the component certifies that—

A. The component was tested to at least the pressure required for the pipeline to which it is being added; [or]

B. The component was manufactured under a quality control system that ensures that each item manufactured is at least equal in strength to a prototype and that the prototype was tested to at least the pressure required for the pipeline to which it is being added./; or

C. The component carries a pressure rating established through applicable ASME/ANSI, MSS specifications, or by unit strength calculations as described in subsection (4)(B).

5. For fabricated units and short sections of pipe, for which a post-installation test is impractical, a pre-installation strength test must be conducted by maintaining the pressure at or above the test pressure for at least four (4) hours.

(11) Up-rating.

(B) General Requirements. (192.553)

1. Pressure increases. Whenever the requirements of this section require that an increase in operating pressure be made in increments, the pressure must be increased gradually, at a rate that can be controlled and in accordance with the following:

A. At the end of each incremental increase, the pressure must be held constant while the entire segment of the pipeline that is affected is checked for leaks. When a combustible gas is being used for up-rating, all buried piping must be checked with a leak detection instrument after each incremental increase; and

B. Each leak detected must be repaired before a further pressure increase is made, except that a leak determined not to be potentially hazardous need not be repaired, if it is monitored during the pressure increase and it does not become potentially hazardous.

2. Records. Each operator who up-rates a segment of pipeline shall retain for the life of the segment a record of each investigation required by this section, of all work performed, and of each pressure test conducted, in connection with the up-rating.

3. Written plan. Each operator who up-rates a segment of pipeline shall establish a written procedure that will ensure compliance with each applicable requirement of this section.

4. Limitation on increase in maximum allowable operating pressure. Except as provided in (11)(C)3. [(192.555(c))], a new maximum allowable operating pressure established under this section may not exceed the maximum that would be allowed under [this rule] (12)(M) and (12)(N) for a new segment of pipeline constructed of the same materials in the same location. However, when up-rating a steel pipeline, if any variable necessary to determine the design pressure under the design formula in subsection (3)(C) is unknown, the MAOP may be increased as provided in subparagraph (12)(M)1.A.

5. Establishment of a new maximum allowable operating pressure. Subsections (12)(M) and (N) (192.619 and 192.621) must be reviewed when establishing a new MAOP. The pressure to which the pipeline is raised during the up-rating procedure is the test pressure that must be divided by the appropriate factors in subparagraph (12)(M)1.B. (192.619[a][2]) except that pressure tests conducted on steel and plastic pipelines after July 1, 1965 are applicable.

(12) Operations.

(C) Procedural Manual for Operations, Maintenance, and Emergencies. (192.605)

1. General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines that are not exempt under subparagraph (12)(C)3.E., the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding fifteen (15) months, but at least once each calendar year. The manual must be revised, as necessary, within one (1) year of the effective date of revisions to this rule. This manual must be prepared before initial operations of a pipeline system commence and appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

2. Maintenance and normal operations. The manual required by paragraph (12)(C)1. must include procedures for the following *[where applicable for an operator's facilities], if applicable*, to provide safety during maintenance and normal operations:

A. Operating, maintaining and repairing the pipeline in accordance with each of the requirements of this section and sections (13) and (14);

B. Controlling corrosion in accordance with the operations and maintenance requirements of section (9);

C. Making construction records, maps and operating history available to appropriate operating personnel;

D. Gathering of data needed for reporting incidents under 4 CSR 240-40.020 in a timely and effective manner;

E. Starting up and shutting down any part of a pipeline in a manner designed to assure operation within the MAOP limits prescribed by this rule, plus the build-up allowed for operation of pressure limiting and control devices;

F. Maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service;

G. Starting, operating and shutting down gas compressor units;

H. Periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found;

I. Inspecting periodically to ensure that operating pressures are appropriate for the class location;

J. Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available, when needed at the excavation, emergency rescue equipment including a breathing apparatus and a rescue harness and line;

K. Systematically and routinely testing and inspecting pipe-type or bottle-type holders including:

(I) Provision for detecting external corrosion before the strength of the container has been impaired;

(II) Periodic sampling and testing of gas in storage to determine the dew point of vapors contained in the stored gas that, if condensed, might cause internal corrosion or interfere with the safe operation of the storage plant; and

(III) Periodic inspection and testing of pressure limiting equipment to determine that it is in a safe operating condition and has adequate capacity;

L. Continuing observations during all routine activities including, but not limited to, meter reading and cathodic protection work, for the purpose of detecting potential leaks by observing vegetation and odors. Potential leak indications must be recorded and responded to in accordance with section (14); *and*

M. Testing and inspecting of customer-owned gas piping and equipment.; *and*

N. Responding promptly to a report of a gas odor inside or near a building, unless the operator's emergency procedures under (12)(J)1.C. specifically apply to these reports.

3. Abnormal operation. For transmission lines the manual required by paragraph (12)(C)1. must include procedures for the following to provide safety when operating design limits have been exceeded:

A. Responding to, investigating and correcting the cause of—

(I) Unintended closure of valves or shutdowns;
(II) Increase or decrease in pressure or flow rate outside normal operating limits;

(III) Loss of communications;

(IV) Operation of any safety device; and

(V) Any other foreseeable malfunction of a component, deviation from normal operation or personnel error which could cause a hazard to persons or property;

B. Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation;

C. Notifying responsible operator personnel when notice of an abnormal operation is received;

D. Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found; and

E. The requirements of *[this]* paragraph (12)(C)3. do not apply to natural gas distribution operations that are operating transmission lines in connection with their distribution system.

4. Safety-related conditions. The manual required by paragraph (12)(C)1. must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the commission's reporting requirements.

5. Surveillance, emergency response and accident investigation. The procedures required by paragraph (12)(H)1. and subsections (12)(J) and (L) (192.613[a], 192.615 and 192.617) must be included in the manual required by paragraph (12)(C)1.

(D) Qualification of Pipeline Personnel *[(Subpart N)]*.

1. Scope. (192.801)

A. This subsection prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility. This subsection applies to all individuals who perform covered tasks, regardless of whether they are employed by the operator, a contractor, a subcontractor, or any other entity performing covered tasks on behalf of the operator.

B. For the purpose of this subsection, a covered task is an activity, identified by the operator, that:

(I) Is performed on a pipeline facility;

(II) Is an operations, maintenance or emergency-response task;

(III) Is performed as a requirement of this rule; and

(IV) Affects the operation or integrity of the pipeline.

2. Definitions. (192.803)

A. Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

(I) Indicate a condition exceeding design limits;

(II) Result in a hazard(s) to persons, property, or the environment; or

(III) Require an emergency response.

B. Evaluation (or evaluate) means a process consisting of training and examination, established and documented by the operator, to determine an individual's ability to perform a covered task and to demonstrate that an individual possesses the knowledge and skills under paragraph (12)(D)4. After initial evaluation for paragraph (12)(D)4., subsequent evaluations for paragraph (12)(D)4. can consist of examination only. The examination portion of this process shall be conducted by one or more of the following:

(I) Written examination;

(II) Oral examination;

(III) Hands-on examination, which could involve observation supplemented by appropriate queries. Observations can be made during:

(a) Performance on the job;

- (b) On the job training; or
 - (c) Simulations.
- C. Qualified means that an individual has been evaluated and can:
- (I) Perform assigned covered tasks; and
 - (II) Recognize and react to abnormal operating conditions.
3. Qualification program. (192.805) Each operator shall have and follow a written qualification program. The program shall include provisions to:
- A. Identify covered tasks;
 - B. Ensure through evaluation that individuals performing covered tasks are qualified **and have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities;**
 - C. Allow individuals that are not qualified pursuant to this subsection to perform a covered task if directed and observed by an individual that is qualified;
 - D. Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident meeting the Missouri reporting requirements in 4 CSR 240-40.020(4)(A);
 - E. Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;
 - F. Communicate changes, including changes to rules and procedures, that affect covered tasks to individuals performing those covered tasks and their supervisors, and incorporate those changes in subsequent evaluations;
 - G. Identify the interval for each covered task at which evaluation of the individual's qualifications is needed, with a maximum interval of thirty-nine (39) months;
 - H. Evaluate an individual's possession of the knowledge and skills under paragraph (12)(D)4. at intervals not to exceed thirty-nine (39) months; *[and]*
 - I. Ensure that covered tasks are:
 - (I) Performed by qualified individuals; or
 - (II) Directed and observed by qualified individuals~~./~~; **and**
 - J. Submit each program change to designated commission personnel as required by subsection (1)(J).**
4. Personnel to whom this subsection applies must possess the knowledge and skills necessary to—
- A. Follow the requirements of this rule that relate to the covered tasks they perform;
 - B. Carry out the procedures in the procedural manual for operations, maintenance and emergencies established under subsection (12)(C) (192.605) that relate to the covered tasks they perform;
 - C. Utilize instruments and equipment that relate to the covered task they perform in accordance with manufacturer's instructions;
 - D. Know the characteristics and hazards of the gas transported, including flammability range, odorant characteristics and corrosive properties;
 - E. Recognize potential ignition sources;
 - F. Recognize conditions that are likely to cause emergencies, including equipment or facility malfunctions or failure and gas leaks, predict potential consequences of these conditions and take appropriate corrective action;
 - G. Take steps necessary to control any accidental release of gas and to minimize the potential for fire or explosion; and
 - H. Know the proper use of firefighting procedures and equipment, fire suits and breathing apparatus by utilizing, where feasible, a simulated pipeline emergency condition.
5. Each operator shall continue to meet the training and annual review requirements regarding the operator's emergency procedures in subparagraph (12)(J)2.B., in addition to the qualification program required in paragraph (12)(D)3.
6. Each operator shall provide instruction to the supervisors or designated persons who will determine when an evaluation is necessary under subparagraph (12)(D)3.E.

7. Each operator shall select appropriately knowledgeable individuals to provide training and to perform evaluations. Where hands-on examinations and observations are used, the evaluator should possess the required knowledge to ascertain an individual's ability to perform covered tasks and react to abnormal operating conditions that might occur while performing those tasks.

8. Record keeping. (192.807) Each operator shall maintain records that demonstrate compliance with this subsection.

A. Qualification records shall include:

- (I) Identification of the qualified individual(s);
- (II) Identification of the covered tasks the individual is qualified to perform;
- (III) Date(s) of current qualification; and
- (IV) Qualification method(s).

B. Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five (5) years.

9. General. (192.809)

A. Subsection (12)(D) for personnel qualification was promulgated in 1989, effective December 15, 1989. Operators were required to meet the training and testing requirements within eighteen (18) months following the effective date, or June 15, 1991. At that time, there were no federal requirements for personnel qualification.

B. Subpart N to 49 CFR 192 (Subpart N) was adopted with federal regulations for qualification of pipeline personnel, effective October 26, 1999. Subsection (12)(D) is being amended in 2000 to incorporate much of Subpart N, including all requirements in Subpart N that are more stringent than the original subsection (12)(D). However, subsection (12)(D) as amended is different from and more stringent than Subpart N, primarily because training and testing is still required and work performance history review is not permitted as an evaluation method. Operators should continue to comply with the original subsection (12)(D) until the following deadlines, which are from Subpart N.

(I) Operators must have a written qualification program by April 27, 2001. **The program and any program changes must be submitted to designated commission personnel as required by subsection (1)(J).**

(II) Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.

(III) After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation.

(G) Change in Class Location—Confirmation or Revision of Maximum Allowable Operating Pressure. (192.611) If the hoop stress corresponding to the established maximum allowable operating pressure of a segment of pipeline is not commensurate with the present class location, and the segment is in satisfactory physical condition, the maximum allowable operating pressure of that segment of pipeline must be confirmed or revised according to one (1) of the following three (3) paragraphs:

1. If the segment involved has been previously tested in place for a period of not less than eight (8) hours, the maximum allowable operating pressure is 0.8 times the test pressure in Class 2 locations, 0.667 times the test pressure in Class 3 locations, or 0.555 times the test pressure in Class 4 locations. The corresponding hoop stress may not exceed seventy-two percent (72%) of SMYS of the pipe in Class 2 locations, sixty percent (60%) of SMYS in Class 3 locations or fifty percent (50%) of SMYS in Class 4 locations;

2. The maximum allowable operating pressure of the segment involved must be reduced so that the corresponding hoop stress is not more than that allowed by this rule for new segments of pipelines in the existing class location; or

3. The segment of pipeline involved must be tested in accordance with the applicable requirements of section (10), and its

maximum allowable operating pressure must then be established according to the following criteria:

A. The maximum allowable operating pressure after the requalification test is 0.8 times the test pressure for Class 2 locations, 0.667 times the test pressure for Class 3 locations and 0.555 times the test pressure for Class 4 locations; and

B. The corresponding hoop stress may not exceed seventy-two percent (72%) of the SMYS of the pipe in Class 2 locations, sixty percent (60%) of SMYS in Class 3 locations or fifty percent (50%) of the SMYS in Class 4 locations.

4. The maximum allowable operating pressure confirmed or revised in accordance with this subsection may not exceed the maximum allowable operating pressure established before the confirmation or revision.

5. Confirmation or revision of the maximum allowable operating pressure of a segment of pipeline in accordance with this subsection does not preclude the application of subsections (11)(B) and (C). (192.553 and 192.555)/.]

6. Confirmation or revision of the maximum allowable operating pressure that is required as a result of a study under subsection (12)(F) [(192.609)] must be completed within [eighteen (18)] **twenty-four (24)** months of the change in class location. Pressure reduction under paragraph (12)(G)1. or 2. within the [eighteen (18)] **twenty-four (24)**-month period does not preclude establishing a maximum allowable operating pressure under paragraph (12)(G)3., at a later date.

(K) **Public [Education] Awareness.** (192.616) [Each operator shall establish a continuing educational program to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator or the appropriate public officials. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area. The]

1. Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)). In addition, the program must provide for notification of the intended groups on the following schedule:

[1.] **A.** Appropriate government organizations and persons engaged in excavation related activities must be notified at least annually;

[2.] **B.** The public must be notified at least semiannually; and

[3.] **C.** Customers must be notified at least semiannually by mailings or hand-delivered messages and at least nine (9) times a calendar year by billing messages.

2. The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

3. The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

4. The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on:

A. Use of a one-call notification system prior to excavation and other damage prevention activities;

B. Possible hazards associated with unintended releases

from a gas pipeline facility;

C. Physical indications that such a release may have occurred;

D. Steps that should be taken for public safety in the event of a gas pipeline release; and

E. Procedures for reporting such an event.

5. The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations.

6. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas.

7. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

8. Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. As an exception, master meter operators having less than twenty-five (25) customers must have completed development and documentation of their programs no later than June 20, 2007. Operators must submit their completed programs and any program changes to designated commission personnel as required by subsection (1)(J).

9. The operator's program documentation and evaluation results must be available for periodic review by designated commission personnel.

(M) Maximum Allowable Operating Pressure—Steel or Plastic Pipelines. (192.619)

1. Except as provided in paragraph (12)(M)3., no person may operate a segment of steel or plastic pipeline at a pressure that exceeds the lowest of the following:

A. The design pressure of the weakest element in the segment, determined in accordance with sections (3) and (4). However, for steel pipe in pipelines being converted under subsection (1)(H) or uprated under section (11), if any variable necessary to determine the design pressure under the design formula in subsection (3)(C) is unknown, one of the following pressures is to be used as design pressure:

(I) Eighty percent (80%) of the first test pressure that produces yield under section [N5.0] N5 of Appendix N of ASME B31.8 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)), reduced by the appropriate factor in (12)(M)1.B.(II); or

(II) If the pipe is twelve and three-quarter inches (12 3/4") (324 mm) or less in outside diameter and is not tested to yield under this paragraph, two hundred (200) psi (1379 kPa) gauge;

B. The pressure obtained by dividing the highest pressure to which the segment was tested after construction or uprated as follows:

(I) For plastic pipe in all locations, the test pressure is divided by a factor of 1.5; and

(II) For steel pipe operated at one hundred (100) psi (689 kPa) gauge or more, the test pressure is divided by a factor determined in accordance with the following table:

Class Location	Factors ¹ , segment—		
	Installed before (Nov. 12, 1970)	Installed after (Nov. 11, 1970)	Converted under subsection (1)(H)(192.14)
1	1.1	1.1	1.25
2	1.25	1.25	1.25
3	1.4	1.5	1.5
4	1.4	1.5	1.5

¹For segments installed, uprated or converted after July 31, 1977 that are located on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

C. The highest actual operating pressure to which the segment was subjected during the five (5) years preceding *[July 1, 1970,] the applicable date in the second column. This pressure restriction applies unless the segment was tested in accordance with subparagraph (12)(M)1.B. after [July 1, 1965,] the applicable date in the third column* or the segment was updated in accordance with section (11); *[and]*

Pipeline Segment	Pressure Date	Test date
Onshore gathering line that first became subject to 49 CFR 192.8 and 192.9 after April 13, 2006 (see (1)(E)).	March 15, 2006, or date line becomes subject to this rule, whichever is later.	Five (5) years preceding applicable date in second column.
Onshore transmission line that was a gathering line not subject to 49 CFR 192.8 and 192.9 before March 15, 2006 (see (1)(E)).	March 15, 2006	March 15, 2001
All other pipelines.	July 1, 1970	July 1, 1965

D. The pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressure.

2. No person may operate a segment of pipeline to which this subsection applies unless overpressure protective devices are installed for the segment in a manner that will prevent the maximum allowable operating pressure from being exceeded, in accordance with subsection (4)(CC). (192.195)

3. *[Notwithstanding the other requirements of this subsection, an operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the five (5) years preceding July 1, 1970, subject to the requirements of subsection (12)(G). (192.611)]* **The requirements on pressure restrictions in this subsection do not apply in the following instance. An operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the five (5) years preceding the applicable date in the second column of the table in (12)(M)1.C. An operator must still comply with (12)(G).**

(P) Odorization of Gas. (192.625)

1. A combustible gas in a transmission line or distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth (1/5) of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell. However, for transmission lines in operation before May 28, 1995, the section of transmission line between the supplier's delivery point and the odorizer need not meet the requirements of this paragraph.

2. For installations made after May 28, 1995, a combustible gas in a transmission line must comply with the requirements of paragraph (12)(P)1., and the odorizer must be located as close as practical to the delivery point from the supplier.

3. In the concentrations in which it is used, the odorant in combustible gases must comply with the following:

A. The odorant may not be deleterious to persons, materials or pipe; and

B. The products of combustion from the odorant may not be toxic when breathed nor may they be corrosive or harmful to those materials to which the products of combustion will be exposed.

4. The odorant may not be soluble in water to an extent greater than two and one-half (2 1/2) parts to one hundred (100) parts by weight.

5. Equipment for odorization must introduce the odorant without wide variations in the level of odorant.

6. **To assure the proper concentration of odorant in accordance with this subsection, [E]each operator [shall] must conduct, at least monthly, odor intensity tests with an instrument [to assure**

the proper concentration of odorant and odorant intensity in accordance with this subsection.] capable of determining the percentage of gas in air at which the odor becomes readily detectable. At individually odorized service lines, the odor intensity shall be checked at least once each calendar year at intervals not to exceed fifteen (15) months. Operators of master meter systems may comply with this paragraph by—

A. Receiving written verification from their gas source that the gas has the proper concentration of odorant; and

B. Conducting periodic “sniff” tests at the extremities of the system to confirm that the gas contains odorant.

7. All odorant tanks should be checked periodically to assure adequate odorant is available. Odorant injection rates can be a useful monitoring tool for some systems. Each operator should consider when and where to use odorant injection rates.

(13) Maintenance.

(F) Record Keeping. (192.709)

1. For transmission lines each operator shall keep records covering each leak discovered, repair made, line break, leakage survey, line patrol, and inspection for as long as the segment of transmission line involved remains in service. (192.709)

2. For feeder lines, mains, and service lines, each operator shall maintain—

A. Records pertaining to each original leak report for not less than six (6) years;

B. Records pertaining to each leak investigation and classification for not less than six (6) years. These records shall at least contain sufficient information to determine if proper assignment of the leak class was made, the promptness of actions taken, the address of the leak and the frequency of reevaluation and/or reclassification;

C. Records pertaining to each leak repair for the life of the facility involved, except no record is required for repairs of above-ground Class 4 leaks. These records shall at least contain sufficient information to determine the promptness of actions taken, address of the leak, pipe condition at the leak site, leak classification at the time of repair and other such information necessary for proper completion of DOT annual Distribution and Transmission Line report forms (*[RSPA] PHMSA F 7100.1-1 and [RSPA] PHMSA F 7100.2-1*);

D. Records pertaining to leakage surveys and line patrols conducted over each segment of pipeline for not less than six (6) years. These records shall at least contain sufficient information to determine the frequency, scope and results of the leakage survey or line patrol; and

E. Records pertaining to leak tests or surveys conducted in accordance with paragraph (14)(B)7. for not less than two (2) years.

3. For yard lines and buried fuel lines, each operator shall maintain records of notifications and leakage surveys required by subsection (13)(M) for not less than six (6) years.

(O) Abandonment or Deactivation of Facilities. (192.727)

1. Each operator shall perform abandonment or deactivation of pipelines in accordance with the requirements of this subsection.

2. Each pipeline abandoned in place must be disconnected from all sources and supplies of gas, purged of gas and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

3. Except for service lines, each inactive pipeline that is not being maintained under this rule must be disconnected from all sources and supplies of gas, purged of gas and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

4. Whenever service to a customer is discontinued, one (1) of the following must be complied with:

A. The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator;

B. A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly; or

C. The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

5. If air is used for purging, the operator shall ensure that a combustible mixture is not present after purging.

6. Each abandoned vault must be filled with a suitable compacted material.

7. For each abandoned pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility. The addresses (mail and *[E-mail]* email) and phone numbers given in this paragraph are from *[section 192.727(g) of 49 CFR part 192, which became effective on October 10, 2000]* **49 CFR 192.727(g) as published on October 1, 2006.** Please consult the current edition of 49 CFR part 192 for any updates to these addresses and phone numbers.

A. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at *[www.npms.rspa.dot.gov]* **www.npms.phmsa.dot.gov** or contact the NPMS National Repository at 703-317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or *[E-mail]* email to the Information Officer, *[Research and Special Programs Administration]* **Pipeline and Hazardous Materials Safety Administration**, U.S. Department of Transportation, Room *[7128]* **2103**, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; *[E-mail]* email, *[roger.little@rspa.dot.gov]* **roger.little@dot.gov**. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

B. *[Data on pipeline facilities abandoned before October 10, 2000 must be filed before April 10, 2001. Operators may submit reports by mail, fax or E-mail to the Information Officer, Research and Special Programs*

Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; E-mail, roger.little@rspa.dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.] (Reserved)

(R) Pressure Limiting and Regulating Stations—Inspection and Testing. (192.739)

1. Each pressure limiting station, relief device (except rupture discs) and pressure regulating station and its equipment must be subjected at intervals not exceeding fifteen (15) months but at least once each calendar year to inspections and tests to determine that it is—

[1.] A. In good mechanical condition;

[2.] B. Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;

[3.] C. ***[Set]* Except as provided in paragraph (13)(R)2., set to control or relieve at the correct pressures that will prevent downstream pressures from exceeding the allowable pressures under subsections *[(4)(CC)] (4)(FF), and (12)(M)–(O);***

[4.] D. Properly installed and protected from dirt, liquids and other conditions that might prevent proper operation;

[5.] E. Properly protected from unauthorized operation of valves in accordance with paragraph (4)(EE)8.; *[(192.199(h))]*

[6.] F. Equipped to indicate regulator malfunctions in accordance with paragraphs (4)(EE)10. and 11. in a manner that is adequate from the standpoint of reliability of operation; and

[7.] G. Equipped with adequate over-pressure protection in accordance with paragraph (4)(EE)9.

2. For steel pipelines whose MAOP is determined under paragraph (12)(M)3., if the MAOP is sixty (60) psi (414 kPa) gauge or more, the control or relief pressure limit is as follows:

A. If the MAOP produces a hoop stress that is greater than seventy-two percent (72%) of SMYS, then the pressure limit is MAOP plus four percent (4%).

B. If the MAOP produces a hoop stress that is unknown as a percentage of SMYS, then the pressure limit is a pressure that will prevent unsafe operation of the pipeline considering its operating and maintenance history and MAOP.

(T) Pressure Limiting and Regulating Stations—*[Testing]* Capacity of Relief Devices. (192.743)

1. *[If feasible, pressure relief devices (except rupture discs) must be tested in place at intervals not exceeding fifteen (15) months but at least once each calendar year, to determine that they have enough]* **Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in paragraph (13)(R)2., these devices must have sufficient capacity to limit the pressure on the facilities to which they are connected to the desired maximum pressure which does not exceed the pressure allowed by subsection (4)(FF). This capacity must be determined at intervals not exceeding fifteen (15) months, but at least once each calendar year, by testing the devices in place or by review and calculations.**

2. *[If a test is not feasible, review and calculation of the required capacity of the relieving device at each station must be made at intervals not exceeding fifteen (15) months but at least once each calendar year, and these required capacities]* **If review and calculations are used to determine if a relief device has sufficient capacity, the calculated capacity must be compared with the rated or experimentally determined relieving capacity of the device for the *[operating]* conditions under which it *[works]* operates. After the initial calculations, subsequent calculations *[are not required]* need not be made if the annual review documents that parameters have not changed *[in a manner which would cause the capacity to be less than required]* to cause**

the rated or experimentally determined relieving capacity to be insufficient.

3. If [the relieving] a relief device is of insufficient capacity [to comply with subsection (4)(FF)], a new or additional device must be installed to provide the [additional] capacity required by paragraph (13)(T)1.

(U) Valve Maintenance—Transmission Lines. (192.745)

1. Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding fifteen (15) months but at least once each calendar year.

2. Each operator must take prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve.

(V) Valve Maintenance—Distribution Systems. (192.747)

1. Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked for accessibility and serviced at intervals not exceeding fifteen (15) months but at least once each calendar year.

2. Feeder line and distribution line valves, the use of which may be necessary for the safe operation of a distribution system, shall be inspected at intervals not exceeding fifteen (15) months but at least once each calendar year. At a minimum, the valves that are metallic must be partially operated during alternating calendar years.

3. Valves necessary for the safe operation of a distribution system include, but are not limited to, those which provide:

A. One hundred percent (100%) isolation of the system or any portion of it;

B. Control of a district regulator station, preferably from a remote location;

C. Zones of isolation sized such that the operator could relight the lost customer services within a period of eight (8) hours after restoration of system pressure; or

D. Extensive zone isolation capabilities where historical records indicate conditions of greater than normal pipeline failure risk.

4. Each operator must take prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve.

(Y) Caulked Bell and Spigot Joints. (192.753)

1. Each cast iron caulked bell and spigot joint that is subject to pressures of more than twenty-five (25) psi (172 kPa) gauge [or more] must be sealed with—

A. A mechanical leak clamp; or

B. A material or device which—

(I) Does not reduce the flexibility of the joint;

(II) Permanently bonds, either chemically or mechanically, or both, with the bell and spigot metal surfaces or adjacent pipe metal surfaces; and

(III) Seals and bonds in a manner that meets the strength, environmental and chemical compatibility requirements of paragraphs (2)(B)1. and 2. and subsection (4)(B). (192.53(a) and (b) and 192.143)

2. Each cast iron caulked bell and spigot joint that is subject to pressures of [less than] twenty-five (25) psi (172 kPa) gauge or less and is exposed for any reason must be sealed by a means other than caulking.

(16) [Waivers of Compliance. Upon written request to the secretary of the commission, the commission, by authority order, and under such terms and conditions as the commission deems appropriate, may waive in whole or part compliance with any of the rules and requirements contained in the rule which are more stringent than minimum federal requirements. Waivers will be granted only on a showing that gas safety is not compromised. If any such request is denied, the denial will be in writing and state the reason(s) therefor.] Pipeline Integrity Management for Transmission Lines.

(A) As set forth in the Code of Federal Regulations (CFR) dated

October 1, 2006, the subsequent amendment 192-103 (published in *Federal Register* on February 1, 2007, page 72 FR 4655), and the subsequent amendment published on July 17, 2007 (published in *Federal Register* on July 17, 2007, page 72 FR 39012), the federal regulations in 49 CFR part 192, subpart O and in 49 CFR part 192, appendix E are incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to subpart O and appendix E to 49 CFR part 192.

(B) The Code of Federal Regulations and the Federal Register are published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, 2006 version of 49 CFR part 192 is available at www.access.gpo.gov/nara/cfr/cfr-table-search.html. The Federal Register publications on page 72 FR 4655 and page 72 FR 39012 are available at www.gpoaccess.gov/fr/advanced.html.

(C) Subpart O and appendix E to 49 CFR part 192 contain the federal regulations regarding pipeline integrity management for transmission lines. Subpart O includes sections 192.901 through 192.951. Information regarding subpart O is available at <http://primis.phmsa.dot.gov/gasimp>.

(17) Waivers of Compliance. Upon written request to the secretary of the commission, the commission, by authority order and under such terms and conditions as the commission deems appropriate, may waive in whole or part compliance with any of the requirements contained in this rule. Waivers will be granted only on a showing that gas safety is not compromised. If the waiver request would waive compliance with a federal requirement in 49 CFR part 192, additional actions shall be taken in accordance with 49 U.S.C. 60118.

Appendix A—4 CSR 240-40.030

[Appendix A—Incorporated by Reference] (Reserved)

I. List of organizations and address.

A. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, VA 22209.

B. American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036.

C. American Petroleum Institute (API), 1220 L Street, N.W., Washington, D.C. 20005

D. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

E. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

F. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, N.W., Vienna, VA 22180.

G. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.

II. Documents incorporated by reference. Numbers in parentheses indicate applicable editions.

A. American Gas Association (AGA):

1) AGA Pipeline Research Committee, Project PR-3-805, A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe (December 22, 1989).

B. American Petroleum Institute (API):

1) API Specification 5L Specification for Line Pipe (41st edition, 1995).

2) API Recommended Practice 5L1 Recommended Practice for Railroad Transportation of Line Pipe (4th edition, 1990).

3) API Specification 6D Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves) (21st edition, 1994).

4) API Standard 1104 Welding of Pipelines and Related

Facilities (18th edition, 1994).

C. The American Society for Testing and Materials (ASTM):

1) ASTM Designation A 53 Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless (A 53-96).

2) ASTM Designation A 106 Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service (A 106-95).

3) ASTM Designation A 671 Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures (A 671-94).

4) ASTM Designation A 672 Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures (A 672-94).

5) ASTM Designation A 691 Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures (A 691-93).

6) ASTM Designation A 333/A 333M Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service (A 333/A 333M-94).

7) ASTM Designation A 372/A 372M Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels (A 372/A 372M-95).

8) ASTM Designation A 381 Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems (A 381-93).

9) ASTM Designation D 638 Standard Test Method for Tensile Properties of Plastics (D 638-96).

10) ASTM Designation D 2513 Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings (D 2513-87 edition for subparagraph (2)(E)1.A., otherwise D 2513-96a).

11) ASTM Designation D 2517 Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings (D 2517-94).

12) ASTM Designation F 1055 Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing (F 1055-95).

D. The American Society of Mechanical Engineers (ASME):

1) ASME/ANSI B16.1 Cast-Iron Pipe Flanges and Flanged Fittings (1989).

2) ASME/ANSI B16.5 Pipe Flanges and Flanged Fittings (1988 with October 1988 Errata and ASME/ANSI B16.5a-1992 Addenda).

3) ASME/ANSI B31G Manual for Determining the Remaining Strength of Corroded Pipelines (1991).

4) ASME/ANSI B31.8 Gas Transmission and Distribution Piping Systems (1995).

5) ASME Boiler and Pressure Vessel Code, Section I Power Boilers (1995 edition with 1995 Addenda).

6) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 Pressure Vessels (1995 edition with 1995 Addenda).

7) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 Pressure Vessels: Alternative Rules (1995 edition with 1995 addenda).

8) ASME Boiler and Pressure Vessel Code, Section IX, Welding and Brazing Qualifications (1995 edition with 1995 Addenda).

E. Manufacturer's Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

1) MSS SP-44-1996 Steel Pipe Line Flanges (includes 1996 errata) (1996).

F. National Fire Protection Association (NFPA):

1) ANSI/NFPA 30 Flammable and Combustible Liquids Code (1996).

2) Reserved.

3) ANSI/NFPA 58 Standard for the Storage and Handling of Liquefied Petroleum Gases (1995).

4) ANSI/NFPA 59 Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants (1995).

5) ANSI/NFPA 70 National Electrical Code (1996).]

Appendix B to 4 CSR 240-40.030

Appendix B—Qualification of Pipe

I. Listed Pipe Specifications. [Numbers in parentheses indicate applicable editions.]

API 5L—Steel pipe [(1995).], “API Specification for Line Pipe” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)).

ASTM A 53/A53M—Steel pipe [(1996).], “Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, Welded and Seamless” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)).

ASTM A 106—Steel pipe [(1995).], “Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)).

ASTM A 333/A 333M—Steel pipe [(1994).], “Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)).

ASTM A 381—Steel pipe [(1993).], “Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)).

ASTM A 671—Steel pipe [(1994).], “Standard Specification for Electric-Fusion-Welded Pipe for Atmospheric and Lower Temperatures” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)).

ASTM A 672—Steel pipe [(1994).], “Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)).

ASTM A 691—Steel pipe [(1993).], “Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)).

ASTM D 2513—Thermoplastic pipe and tubing [(1996a).], “Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings” (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)).

[ASTM D 2517—Thermosetting plastic pipe and tubing (1994).]

II. Steel pipe of unknown or unlisted specification.

A. Bending properties. For pipe two inches (2") (51 millimeters) or less in diameter, a length of pipe must be cold bent through at least ninety degrees (90°) around a cylindrical mandrel that has a diameter twelve (12) times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld. For pipe more than two inches (2") (51 millimeters) in diameter, the pipe must meet the requirements of the flattening tests set forth in ASTM

A53 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)), except that the number of tests must be at least equal to the minimum required in paragraph II.D. of this appendix to determine yield strength.

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under section (5) of 4 CSR 240-40.030. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than four inches (4") (102 millimeters) in diameter, at least one test weld must be made for each one hundred (100) lengths of pipe. On pipe four inches (4") (102 millimeters) or less in diameter, at least one test weld must be made for each four hundred (400) lengths of pipe. The weld must be tested in accordance with API Standard 1104 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)). If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with section IX of the *ASME Boiler and Pressure Vessel Code* (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)). The same number of chemical tests must be made as are required for testing a girth weld.

C. Inspection. The pipe must be clean enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and there are no defects which might impair the strength or tightness of the pipe.

D. Tensile properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as twenty-four thousand (24,000) psi (165 MPa) or less, or the tensile properties may be established by performing tensile tests as set forth in API Specification 5L (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)). All test specimens shall be selected at random and the following number of tests must be performed:

Number of Tensile Tests—All Sizes

10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths, but not less than 20 tests.

If the yield-tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in paragraph (2)(C)3. of 4 CSR 240-40.030. (192.55[c])

Appendix C to 4 CSR 240-40.030

Appendix C—Qualification of Welders for Low Stress Level Pipe

I. Basic test. The test is made on pipe twelve inches (12") (305 millimeters) or less in diameter. The test weld must be made with the pipe in a horizontal fixed position so that the test weld includes at least one section of overhead position welding. The beveling, root opening and other details must conform to the specifications of the procedure under which the welder is being qualified. Upon completion, the test weld is cut into four coupons and subjected to a root bend test. If, as a result of this test, two or more of the four coupons develop a crack in the weld material, or between the weld material and base metal, that is more than one-eighth inch (1/8") (3.2 millimeters) long in any direction, the weld is unacceptable. Cracks that occur on the corner of the specimen during testing are not considered. **A welder who successfully passes a butt-weld qualification test under this section shall be qualified to weld on all pipe diameters less than or equal to twelve inches (12").**

Appendix E to 4 CSR 240-40.030

Appendix E. Table of Contents—Safety Standards—Transportation of Gas by Pipeline.

4 CSR 240-40.030(1) General

- (A) [Scope of rule] What Is the Scope of this Rule? (192.1)
- (D) Incorporation By Reference of the Federal Regulation at 49 CFR 192.7. (192.7)
- (E) Gathering Lines. (192.8 and 192.9)
- (G) [General.] What General Requirements Apply to Pipelines Regulated under this Rule? (192.13)

4 CSR 240-40.030(5) Welding of Steel in Pipelines

- (C) [Qualification of] Welding Procedures. (192.225)

4 CSR 240-40.030(9) Requirements for Corrosion Control

- (B) [Applicability to Converted Pipelines.] How Does this Subsection Apply to Converted Pipelines and Regulated Onshore Gathering Lines? (192.452)
- (N) Internal Corrosion Control—General and Monitoring. (192.475 and 192.477)
- (O) Internal Corrosion Control—[Monitoring. (192.477)] Design and Construction of Transmission Line. (192.476)
- (W) Direct Assessment. (192.490)

4 CSR 240-40.030(12) Operations

- (K) Public [Education] Awareness. (192.616)

4 CSR 240-40.030(13) Maintenance

- (T) Pressure Limiting and Regulating Stations—[Testing] Capacity of Relief Devices. (192.743)

4 CSR 240-40.030(16) [Waivers of Compliance.] Pipeline Integrity Management for Transmission Lines.

4 CSR 240-40.030(17) Waivers of Compliance.

AUTHORITY: sections 386.250, 386.310 and 393.140, RSMo 2000. Original rule filed Feb. 23, 1968, effective March 14, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to commission case No. GX-2008-0032. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED AMENDMENT

4 CSR 240-40.080 Drug and Alcohol Testing. The commission is amending sections (1), (4), (5), and (6) of this rule.

PURPOSE: This amendment proposes to amend the rule to conform to amendments of 49 CFR parts 40 and 199.

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) As set forth in the *Code of Federal Regulations (CFR)* dated **October 1, 2006**, 49 CFR parts 40 and 199 are incorporated by reference and made a part of this rule. **This rule does not incorporate any subsequent amendments to 49 CFR parts 40 and 199. The Code of Federal Regulations is published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, 2006 version of 49 CFR parts 40 and 199 is available at www.access.gpo.gov/nara/cfr/cfr-table-search.html.**

(4) For purposes of this rule, the following substitutions should be made for certain references in the federal pipeline safety regulations adopted by reference in section (2) of this rule:

(A) The references to "state agency" in sections 199.3, [199.7(b), 199.13(b)(2), 199.17(a), 199.21(b), 199.23(b), 199.205, 199.231(c), 199.231(d), and 199.245(c) of the federal rule] **199.101, 199.107, 199.111, 199.115, 199.117, 199.231, and 199.245 of 49 CFR part 199** should refer to "the commission" instead;

(B) The references to "accident" in sections 199.3, [199.11(b), 199.205, 199.221, 199.223, 199.225(a), and 199.231(e) of the federal rule] **199.100, 199.105, 199.200, 199.221, 199.225, 199.227, and 199.231 of 49 CFR part 199** should refer to a "federal incident reportable under 4 CSR 240-40.020" instead;

(C) The references to "part 192, 193, or 195 of this chapter" or "part 192, 193, or 195" in sections 199.1, 199.3, [199.200, 199.201, and 199.205 of the federal rule] **199.100, and 199.200 of 49 CFR part 199** should refer to "4 CSR 240-40.030" instead (the commission regulations contained in 4 CSR 240-40.030 parallel 49 CFR part 192, but the commission does not have any rules pertaining to 49 CFR part 193 or 195); **and**

(D) The references to the applicability exemptions for operators of master meter systems as defined in section "191.3 of this chapter" in [sections 199.1 and 199.201 of the federal rule] **49 CFR 199.2** should refer to "4 CSR 240-40.020(2)(F)" instead; **and**

[*(E) The reference to the applicability exemptions for liquefied petroleum gas (LPG) operators as discussed in section "192.11 of this chapter" in section 199.201 of the federal rule should refer to "4 CSR 240-40.030(1)(F)" instead.*]

(5) The federal pipeline safety regulations for **drug and alcohol testing (49 CFR part 199)** adopted in section (2) of this rule contain subparts on **general**, drug testing, and alcohol misuse prevention program.

(A) **The general subpart contains sections on: scope, applicability, definitions, Department of Transportation (DOT) proce-**

dures, stand-down waivers, and preemption of state and local laws.

[*(A)*] (B) The drug testing subpart contains sections on: [scope and compliance; definitions; Department of Transportation (DOT) procedures] **purpose**; anti-drug plan; use of persons who fail or refuse a drug test; drug tests required; drug testing laboratory; review of drug testing results; retention of [sample and retesting] **samples and additional testing**; employee assistance program; contractor employees; record keeping; and reporting of anti-drug testing results.

[*(B)*] (C) The alcohol misuse prevention program subpart contains sections on: **purpose**; [applicability;] alcohol misuse plan; [alcohol testing procedures; definitions; preemption of state and local laws;] other requirements imposed by operators; requirement for notice; [starting date for alcohol testing programs;] alcohol concentration; on-duty use; pre-duty use; use following an accident; refusal to submit to a required alcohol test; alcohol tests required; retention of records; reporting of alcohol testing results; access to facilities and records; removal from covered function; required evaluation and testing; other alcohol-related conduct; operator obligation to promulgate a policy on the misuse of alcohol; training for supervisors; referral, evaluation, and treatment; and contractor employees.

(6) The federal procedures for transportation workplace drug and alcohol testing programs (**49 CFR part 40**) adopted by reference in section (3) of this rule contain subparts on [general, drug testing, alcohol testing, and non-evidential alcohol screening tests] **administrative provisions; employer responsibilities; urine collection personnel; collection sites, forms, equipment and supplies used in DOT urine collections; urine specimen collections; drug testing laboratories; medical review officers and the verification process; split specimen tests; problems in drug tests; alcohol testing personnel; testing sites, forms, equipment, and supplies used in alcohol testing; alcohol confirmation tests; problems in alcohol testing; substance abuse professionals and the return-to-duty process; confidentiality and release of information; roles and responsibilities of service agents; and public interest exclusions.**

[*(A)*] The general subpart contains sections on applicability and definitions.

[*(B)*] The drug testing subpart contains sections on: the drugs; preparation for testing; specimen collection procedures; laboratory personnel; laboratory analysis procedures; quality assurance and quality control; reporting and review of results; protection of employee records; individual access to test and laboratory certification results; and use of Department of Health and Human Services (DHHS) certified laboratories.

[*(C)*] The alcohol testing subpart contains sections on: the breath alcohol technician (BAT); devices to be used for breath alcohol tests; quality assurance plans for evidential breath testing devices (EBTs); locations for breath alcohol testing; the breath alcohol testing form; preparation for breath alcohol testing; procedures for screening tests; procedures for confirmation tests; refusals to test and uncompleted tests; inability to provide an adequate amount of breath; invalid tests; availability and disclosure of alcohol testing information about individual employees; and maintenance and disclosure of records concerning EBTs and BATs.

[*(D)*] The non-evidential alcohol screening tests subpart contains sections on: authorization for use of non-evidential alcohol screening devices; the screening test technician (STT); quality assurance plans for non-evidential screening devices; locations for non-evidential alcohol screening tests; testing forms; screening test procedure; refusals to test and uncompleted tests; inability to provide an adequate amount of breath or saliva; invalid tests; availability and disclosure of alcohol testing information about individual employees; and maintenance and disclosure of records concerning non-evidential testing devices and STTs.]

AUTHORITY: sections 386.250 [and] 386.310 [RSMo Supp. 1997] and 393.140, RSMo [1994] 2000. Original rule filed Nov. 29, 1989, effective April 2, 1990. Rescinded and readopted: Filed Jan. 9, 1996, effective Aug. 30, 1996. Rescinded and readopted: Filed April 9, 1998, effective Nov. 30, 1998. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to Commission Case No. GX-2008-0032. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 123—Modular Units

PROPOSED AMENDMENT

4 CSR 240-123.010 Definitions. The commission is amending section (1).

PURPOSE: The proposed amendment clarifies the terms used in this chapter.

(1) The following definitions, as well as those set out in section 700.010, RSMo 2000 shall apply to this chapter:

(D) Code means the standards relating to manufactured homes, or modular units as adopted by the commission. The commission, in its discretion, may incorporate, in whole or in part, the standards codes promulgated by the [American National Standards Institute,] International Code Council, in its entirety, (for a copy of this 2006 publication, contact the International Code Council, Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795), the United States Department of Housing and Urban Development or other recognized agencies or organizations;

(H) Detailed plan means a detailed set of plans and specifications of each modular unit and manufacturer supplied component produced by a manufacturer;

(J) Purchase agreement or bill of sale means a writing reflecting the terms of transfer of property between a dealer and the purchaser;

[(J)](K) Replacement seal means a seal which has been issued to replace a lost, mutilated or otherwise unserviceable seal or approved insignia; [and]

[(K)](L) Seal as defined by section 700.010, RSMo 2000 includes replacement seal[.]; and

(M) Installation instructions means a detailed installation manual for the supporting, fastening, bolting of the floors, roof section(s), end walls, fastening down to foundation, electrical connections, water crossovers and any other such operation that will be needed to properly set up a modular unit.

AUTHORITY: section 700.040, RSMo 2000. Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. Amended: Filed Oct. 12, 1982, effective Jan. 13, 1983. Amended: Filed June 12, 2001, effective Jan. 30, 2002. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to Commission Case No. MX-2008-0033. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 1:00 p.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 123—Modular Units

PROPOSED AMENDMENT

4 CSR 240-123.020 Administration and Enforcement. The commission is amending section (3) and adding section (4).

PURPOSE: The proposed amendment clarifies parties who are responsible for repairs of substandard units and setup of units when the manufacturer is unable to do so.

(3) The dealer or [S]selling agent shall assume responsibility of repairs due to nonconformance of standards if the manufacturer either goes out of business, avoids [process or is judgment proof] service of process, files bankruptcy, fails to satisfy a judgment, or becomes insolvent.

(4) In the event the dealer/selling agent either goes out of business, avoids service of process, files bankruptcy, fails to satisfy a judgment, or becomes insolvent, the manufacturer shall become responsible for arranging for the setup of the modular unit in accordance with the manufacturer's installation instructions, unless the purchaser or his or her authorized agent has executed a written waiver of that service.

AUTHORITY: section 700.040, RSMo [1986] 2000. Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to Commission Case No. MX-2008-0033. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 1:00 p.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 123—Modular Units**

PROPOSED AMENDMENT

4 CSR 240-123.030 Seals. The commission is amending section (7) and adding section (13).

PURPOSE: The proposed amendment clarifies how seal applications are processed and seals are affixed and the standards and procedures which relate to the issuance of seals for used units.

(7) A seal shall be affixed to the electric panel box [or other accessible inside location] of a completed modular unit. A seal shall be located so that person(s) shall have an unobstructed view of seal.

(13) The director may issue a seal to any registered dealer or owner who has acquired a pre-owned modular unit without a seal, if proof is submitted to the director that the unit meets the requirements of the existing code as adopted by the commission pursuant to section 700.021, RSMo. Proof may include verification that the unit meets the applicable code from an approved third party inspection agency or other entity approved by the

commission. The dealer or owner must make any changes required to bring the unit into compliance with the applicable code. The director may issue a seal if all the requirements of Chapters 700 and 123, RSMo are met, required inspections are completed and the applicable seal fee is submitted.

AUTHORITY: section 700.040, RSMo 2000. Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to Commission Case No. MX-2008-0033. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 1:00 p.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 123—Modular Units**

PROPOSED AMENDMENT

4 CSR 240-123.040 Approval of Manufacturing Programs. The commission is amending sections (1)–(3), (10) and (11).

PURPOSE: The proposed amendment establishes the procedure under which a manufacturing program may be submitted and approved.

(1) To have a manufacturing program considered for approval, the manufacturer who will use the program for which approval is sought shall submit the following information, documents and material to the director:

(E) [Two (2) copies] One (1) copy of the quality control manual under which the manufacturing program will be implemented. The manual shall at least include a description which is sufficient to demonstrate compliance with the code for every procedure relating to the manufacturing of modular units for which the code contains a requirement; [and]

(F) Third party inspection for compliance with required codes[.]; and

(G) One (1) copy of detailed installation instructions for the

assembly of the modular components for each modular unit shall be furnished with each modular unit to the dealer/selling agent, and one (1) set shall be submitted with each model plan for approval, such instruction shall reflect detailed instructions for the assembly of the unit(s), including the fastening of dormers if applicable, roof installation details, floor fastening, end wall fastening, king post installation, and any other on-site assembly of manufacturer supplied components.

(2) Both dealer/selling agent and manufacturer shall register with the Public Service Commission's Manufactured Housing and Modular Units Program before any sales are made by either party. A nonrefundable fee as set forth in section 700.090, RSMo, shall accompany each request for an approval or re-approval of such registration. The registration must be renewed annually.

(3) Approval of a manufacturing program shall be evidenced by the director's stamp of approval on the quality control manual and detailed plans which comprise the program. Upon approval of a manufacturing program the director shall return to the manufacturer a copy of the **plan approval form** for the quality control manual and any [detailed] plans approved which bear the director's stamp of approval. A copy of the original of such approved quality control manual and detailed plans shall be retained at each location where the manufacturing program which they comprise is implemented.

(10) To receive approval of a manufacturing program the manufacturer must also submit [two (2) copies] one (1) copy of detailed plans and installation diagrams for each type of modular unit which will be produced under the manufacturing program. Such detailed plans shall at least include, for every part or component for which the code contains a requirement, a description which is sufficient to demonstrate compliance with the code.

(11) All subsequent modular unit plans and installation diagrams **including foundation plans, if applicable**, for each additional type of modular unit (or model) to be manufactured must also be submitted to the director for approval. Modular unit plan approvals shall be renewed annually on all models still in production. Each submittal shall comply with the following requirements:

(C) **Approval of a new set of detailed plans is required for [A]any change in the systems of an existing modular unit plan, such as electric, plumbing, gas, or change in the manner of construction [requires approval of a new set of detailed plans,] to ensure the unit remains in compliance with the code.** Request for approval shall be accompanied by the applicable fee; and]. **Examples of such changes include but are not limited to: adding or deleting a bathroom, utility room, living room or other structural changes in the roof or other exterior design of the unit.**

(D) **Approval of [S]simple modular unit plan revisions that do not include changes in systems or the manner of construction that do not take the unit out of compliance with the code and do not include the examples in subsection (11)(C) require approval [of the revised modular unit plans] by the director**, but do not require payment of a fee. [Applications for approval of modular unit plan revisions will be subject to review by the director on a case-by-case basis to determine if payment of the fee is required.] **Examples of such changes include but are not limited to: addition or deletion of an entry way closet, installation of fake dormers, movement of an approved stairwell, reversal of a previously approved floor plan, or movement of a nonload bearing interior wall.**

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 is estimated to cost private entities approximately five hundred dollars (\$500) in the aggregate, except for one entity that estimated five hundred twenty-five dollars (\$525) for the first year only.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to Commission Case No. MX-2008-0033. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 1:00 p.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

AUTHORITY: section 700.040, RSMo 2000. Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. Amended: Filed Oct. 12, 1982, effective Jan. 13, 1983. Amended: Filed June 12, 2001, effective Jan. 30, 2002. Amended: Filed Oct. 15, 2007.

**FISCAL NOTE
 PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4

Division: 240 Public Service Commission

Chapter: 123 Modular Units

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 4 CSR 240.123.040 Approval of Manufacturing Programs

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be effected by the adoption of the amendment:	Classifications by type 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
Approximately 360 active Manufacturers and Dealers	Modular Manufactured Manufacturers and Dealers	\$525 annually was reported by one entity for the costs of the manual and engineering - No other costs were reported by the Industry

III. WORKSHEET

- 1) Re-submittal of Manual for 2006 IBC \$ 225.00
- 2) Engineering Fee \$ 300.00
- Total Cost \$ 525.00

Cost submitted by Ice House America, LLC
 645 Mayport Rd., Ste. 4c, Atlantic Beach, Fl. 32233

IV. ASSUMPTIONS

The commission presumes that no other entities reported any additional costs because most manufacturers already supply or send an installation manual with the unit when it's shipped to the dealer or customer and the engineering costs is part of the costs of the manual.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 123—Modular Units**

PROPOSED AMENDMENT

4 CSR 240-123.050 Inspection of Manufacturer's Books, Records, Inventory and Premises. The commission is amending section (1).

PURPOSE: The proposed amendment clarifies the records required to be maintained by manufacturers.

(1) The books, records, **including a copy of the data plate and all service records for each modular unit**, inventory and premises of a manufacturer shall from time-to-time during normal business hours be subject to an inspection by the director to ascertain—

AUTHORITY: section 700.040, RSMo [1986] 2000. Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to Commission Case No. MX-2008-0033. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 1:00 p.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 123—Modular Units**

PROPOSED AMENDMENT

4 CSR 240-123.065 Modular Unit Dealer/Selling Agent Setup Responsibilities. The commission is amending the title and adding section (6).

PURPOSE: This proposed amendment sets forth the extent dealers are responsible for the proper initial setup and contents of sale contracts.

(6) Every dealer of a modular unit shall provide to the purchaser at the time of sale a purchase agreement/bill of sale containing at least the following:

- (A) The purchaser name and address;
- (B) Make of the unit;
- (C) Serial number;
- (D) Date of sale;
- (E) Model and size;
- (F) The total price of the unit and its contents;
- (G) A list of all furniture and appliances in the unit;
- (H) Any other items which will be the responsibility of the purchaser such as transportation, handling, or installation/set-up; and
- (I) If the unit is new or used and if the unit has incurred any damages.

AUTHORITY: section 700.040, RSMo 2000. Original rule filed June 12, 2001, effective Jan. 30, 2002. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to Commission Case No. MX-2008-0033. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 1:00 p.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 123—Modular Units**

PROPOSED AMENDMENT

4 CSR 240-123.080 Code for Modular Units. The commission is amending sections (3), (5) and (6) and adding section (8).

PURPOSE: The amendment establishes the new 2006 building codes for modular units to ensure timely approval and installation of these units in local communities.

(3) The structure shall be manufactured in accordance with and meet the requirements of the following building codes: *International Building Code-[2000] 2006*; *International Plumbing Code-[2000] 2006*; *International Mechanical Code-[2000] 2006*; *International Residential Code-[2000] 2006*; *International Fuel Gas Code-[2000] 2006*; and *National Electric Code NFPA-[1999] 2005*.

Manufacturers will have six (6) months in which to update to the new code after the effective date of this rule as notified by the director for all units built on or after that date. The referenced codes do not include any later amendments or additions. (For a copy of the 2006 International Code publication, contact the International Code Council, Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795.)

(5) All modular units shall meet or exceed the Seismic Zone requirements, [(one, two or three,)] **A, B, C, D1, D2 or E** as defined in the applicable code in section (3) above) for the area in which the modular unit is placed. Modular unit plans submitted by a manufacturer under 4 CSR 240-123.040 shall specify the Seismic Zone for which the unit is built as well as the location where the unit will be placed. If a unit is built for open placement throughout the state of Missouri, [it must be built to Seismic Zone Three requirements] **the manufacturer and the dealer/selling agent is responsible to ensure the unit is placed in the proper seismic area for which the unit is built.**

(6) Each modular unit shall bear a data plate affixed in a permanent manner near the main electrical panel or other readily accessible and visible location. Each data plate must be covered with a material that will make it possible to clean the data plate of ordinary dirt without obscuring the information. Each data plate shall include the following information at a minimum: name and address of manufacturer, serial and model number of the unit, date the unit was manufactured, code the unit was built to, seismic zone listing, **type of foundation the unit is designed for**, name and address of third party engineering agency that reviewed and approved the plans submitted by the manufacturer under 4 CSR 240-123.040.

(8) Installation instructions must be approved by the third party for all field installed components and any other process relating to the assembly of the modular unit(s) and any completed unit may be subject to on-site field inspection.

AUTHORITY: section 700.010 and 700.040, RSMo 2000. Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. Emergency amendment filed July 3, 1989, effective July 13, 1989, expired Nov. 9, 1989. Amended: Filed July 3, 1989, effective Nov. 1, 1989. Amended: Filed June 12, 2001, effective Jan. 30, 2002. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2007, and should include a reference to Commission Case No. MX-2008-0033. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 17, 2007 at 1:00 p.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.*

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

PROPOSED RULE

6 CSR 10-2.140 Institutional Eligibility for Student Participation

PURPOSE: This rule sets forth policies and procedures of the Coordinating Board for Higher Education regarding the certification of public and private institutions of higher education so their full-time students may qualify for participation in the Access Missouri Financial Assistance program.

(1) Definitions.

(A) Access Missouri shall mean the Access Missouri Financial Assistance Program set forth in sections 173.1101–173.1107, RSMo.

(B) Approved institution means any institution located in the state of Missouri that meets the requirements set forth in section 173.1102(2) or (3), RSMo, that has been approved under 6 CSR 10-2.140, and that has been approved to participate in the federal student financial assistance programs created in Title IV of the Higher Education Act of 1965, as amended.

(C) Approved private institution means an educational institution as defined in section 173.1102(2), RSMo.

(D) Approved public institution means an educational institution as defined in section 173.1102(3), RSMo.

(E) CBHE means the Coordinating Board for Higher Education created by section 173.005, RSMo.

(F) Department means the Department of Higher Education created by section 173.005, RSMo.

(G) His, him, or he shall apply equally to the female as well as the male sex where applicable in this rule.

(H) Standard admission policies shall mean policies approved and published by the approved institution to admit special students and students with a certificate of graduation from high school or the equivalent of that certificate.

(2) Policy.

(A) The CBHE is charged by statute to promulgate reasonable rules and regulations to affect the purposes of the Access Missouri program. In establishing this rule of institutional eligibility, the CBHE is guided principally by the *Constitution of Missouri*; the provisions of sections 173.1101–173.1107, RSMo; and decisions of the Missouri Supreme Court construing the laws of the state.

(B) The CBHE will administer the Access Missouri program as a need-based student financial assistance program to assist financially qualified full-time students enrolled in approved institutions of higher education.

(3) Institutional Eligibility.

(A) Only institutions certified by the CBHE as approved public or private institutions may participate in the Access Missouri program.

(B) Public and private institutions are eligible to participate in the Access Missouri program only if they permit faculty members to select textbooks without influence or pressure from any source in order to be approved institutions. This requirement is in addition to requirements set forth in sections 173.1102(2) and (3), RSMo, and elsewhere in this rule. Selection of textbooks within individual departments or schools by faculty curriculum committees shall not be considered inconsistent with this requirement.

(C) To be an approved private institution, an institution must be a nonprofit educational institution operating privately under the control

of an independent board and not directly controlled or administered by any public agency or political subdivision. This requirement is in addition to requirements set forth in section 173.1102(2), RSMo, and elsewhere in this rule. For the purposes of this rule, an independent board is one that meets the following minimum criteria:

1. The governing instrument of the institution gives the governing board final decision making authority for the institution;
2. The governing board is composed of a number of members as fixed or provided for in the governing instrument of the institution, who serve for terms of definite duration;
3. Each member of the governing board is free to exercise judgment independently in the interest of the institution without being controlled by any person or authority; and
4. The members of the governing board may not be removed by any authority during their respective terms, except for cause. For purposes of this criterion, "cause" shall not include any reason based upon religious affiliation, including failure to follow the directives of any purported superior authority, religious or otherwise.

(D) No institution offering a course of study leading only to a degree in theology or divinity shall be eligible for certification as an approved institution under this rule.

(4) The CBHE shall assign institutions to appropriate institutional groups based on length of program, institutional organization, and other criteria it considers applicable to such assignment.

(5) Institutional Responsibilities.

(A) Approved institutions shall—

1. Admit students based on the institution's standard admission policies;
2. Submit a copy of the institution's policy on satisfactory academic progress for the records of the CBHE;
3. Establish fair and equitable refund policies covering tuition, fees, and, where applicable, room and board charges. The refund policy shall be the same policy used by the institution for refunding all federal Title IV financial aid included in the Higher Education Act of 1965;
4. Systematically organize all student records (student financial aid, registrar, business office) pertaining to students who receive Access Missouri awards to be made readily available for review upon request by the CBHE; and
5. Verify each Access Missouri award recipient's eligibility by transmitting the student's record to the CBHE by the annual deadline published by the CBHE for the current academic year.

(B) When the approved institution receives the Access Missouri program funds for the awards made by the CBHE, the approved institution must—

1. Determine if the applicant is enrolled full-time and is making satisfactory progress in his course of study according to standards determined by the approved institution and 6 CSR 10-2.140;
2. Deliver the Access Missouri program funds to the Access Missouri award recipient in the amount determined by the CBHE using the institution's standard award delivery procedures, retaining the portion of the Access Missouri award that the applicant owes for education-related expenses (tuition, fees, room and board, and/or other education-related expenses) to that institution and promptly give the applicant any remaining funds;
3. Return the applicant's Access Missouri award to the CBHE within thirty (30) days of learning he is no longer eligible to receive an award, if this is determined prior to the delivery of funds to the applicant;
4. Be responsible for the repayment of any funds sent to it by the CBHE within thirty (30) days of learning either of the following:

A. The institution delivered Access Missouri funds to an applicant not eligible under the Access Missouri program if the award was based on erroneous, improper, or misleading information provided by the institution to the CBHE; or

B. The institution delivered the Access Missouri award funds to a person other than the one to whom the CBHE has directed the funds be delivered; and

5. Determine and calculate the amount of refunds to the CBHE based on the institution's refund formula for applicants who withdraw. The funds must be returned to the CBHE within thirty (30) days of the determination a withdrawal has occurred.

(C) The CBHE may refuse to make Access Missouri awards to applicants who attend institutions that fail to make timely refunds to the CBHE as provided above.

(6) Procedures.

(A) All institutions currently holding an approved institution status shall retain said status for a period of three (3) years from the effective date of this rule, unless that status is terminated in accordance with 6 CSR 10-2.140(3) or 6 CSR 10-2.140(6)(C).

(B) Any institution not designated an approved institution on the effective date of this rule shall make application to the CBHE to be certified as an approved institution in order for students attending the institution to be eligible to participate in the Access Missouri program. Applications for approved institution status shall be made on forms provided therefore by the CBHE. Upon certification of an institution as an approved institution by the CBHE, the status of an approved institution shall continue for a period of three (3) years from the date of certification unless earlier terminated for changes in operation specified in 6 CSR 10-2.140(3) or 6 CSR 10-2.140(6)(C).

(C) During a period in which an institution is certified as an approved institution, if a substantial change occurs in the institution's governing structure; in the institution's hiring policies pertaining to administration, faculty, and staff; in the institution's admissions policies; in the institution's textbook selection procedures; in the level of programs or degrees offered by the institution; in the institution's qualification for accreditation by the Higher Learning Commission or other United States Department of Education-recognized accrediting agency; in the institution's record of compliance with lawfully promulgated CBHE policies and procedures; or in any other matter affecting the criteria set forth in sections 173.205(2) or (3), RSMo, the CBHE may consider whether to terminate the institution's approved status because of such change. Institutions shall notify the CBHE in writing within thirty (30) days after any such change occurs. Before the CBHE makes a decision regarding the status of an approved institution, the CBHE may, at its own discretion, hold one (1) or more public hearing(s) under the procedures set forth in subsection (6)(G) of this rule.

(D) If any institution's approved institution status is terminated before the expiration of the three (3)-year term, the institution may thereafter apply to the CBHE for recertification on forms provided by the CBHE.

(E) If an approved institution desires to continue its status as an approved institution, it may apply for renewal of its approved institution status by filing an application for recertification as an approved institution at least sixty (60) days before the date its certification would normally expire. An application for recertification as an approved institution shall be made to the CBHE on forms provided by the CBHE.

(F) Upon receipt of a completed institutional application form, the CBHE may certify or recertify the institution as an approved institution or deny certification as an approved institution. The CBHE may base its decision on the information submitted by the institution, on the institution's record of compliance with CBHE policies and procedures, and on any other information that the CBHE deems reliable. The CBHE, at its own discretion, may hold one (1) or more public hearing(s) regarding the merits of the application.

(G) In the event the CBHE requires a hearing, the CBHE shall so advise the institution within a reasonable amount of time. The advice to the institution shall state the time and place of the hearing and the issues of concern to the CBHE. The institution shall publish conspicuous notices of such hearing in its buildings and on its grounds,

in areas accessible to staff, faculty, and students, and the notices shall set forth the fact that the hearing is to be held; its date, time, location, and purpose; the telephone number and mailing address of the commissioner of higher education at the department, and advice that comments concerning the issues identified by the CBHE may be communicated to the commissioner of higher education.

(H) The decision to certify, recertify, decertify, or reject initial certification of an institution as an approved institution shall rest solely within the discretion of the CBHE.

AUTHORITY: section 173.1103, (SS SCS SB 389, 94th General Assembly, First Regular Session (2007)). Emergency rule filed Aug. 28, 2007, effective Sept. 7, 2007, expires March 4, 2008. Original rule filed Oct. 12, 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 not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Higher Education, Financial Assistance, Outreach and Proprietary School Certification, Kelli Reed, Student Assistance Associate, 3515 Amazonas Drive, 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 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

PROPOSED RULE

6 CSR 10-2.150 Student Eligibility and Application Procedures

PURPOSE: This rule sets forth the policies of the Coordinating Board for Higher Education regarding student eligibility and application procedures for student financial assistance under the Access Missouri Financial Assistance program.

(1) Definitions.

(A) Academic year shall be from July 1 of any year through June 30 of the following year.

(B) Access Missouri shall mean the Access Missouri Financial Assistance Program set forth in sections 173.1101–173.1107, RSMo.

(C) Access Missouri award means an amount of money paid by the state of Missouri to a qualified applicant under the Access Missouri program.

(D) Applicant means a student who has filed a complete and accurate application to receive an Access Missouri award as prescribed by the CBHE and who qualifies to receive such award under section 173.1104, RSMo.

(E) Approved institution means any institution located in the state of Missouri that meets the requirements set forth in sections 173.1102(2) or (3), RSMo, that has been approved under 6 CSR 10-2.140, and that has been approved to participate in the federal student financial assistance programs created in Title IV of the Higher Education Act of 1965, as amended.

(F) Award year shall be from July 1 of any year through June 30 of the following year, excluding summer terms.

(G) CBHE means the Coordinating Board for Higher Education created by section 173.005, RSMo.

(H) Consortium Agreement means a written agreement between two (2) or more approved institutions that allows students to take

courses at a school other than the home school and have those courses count toward the degree or certificate at the home school and that complies with United States Department of Education requirements for federal student financial assistance.

(I) Department means the Department of Higher Education created by section 173.005, RSMo.

(J) EFC means Expected Family Contribution, the amount of money a student and family should pay toward the cost of postsecondary education as calculated annually by the United States Department of Education as a result of an official federal need analysis based on the student's federal need-based aid application form.

(K) Full-time student means a student who is enrolled in at least twelve (12) semester hours, eight (8) quarter hours, or the equivalent in another measurement system, but not less than the respective number sufficient to secure the certificate or degree toward which the student is working in no more than the number of semesters or their equivalent normally required by the institution for the program in which the student is enrolled.

(L) His, him, or he shall apply equally to the female as well as the male sex where applicable in this rule.

(M) Initial recipient means a student who qualifies under section 173.1104, RSMo, has filed an accurate and complete application by the deadline established by the CBHE for the Access Missouri program, and has not received an Access Missouri award in any prior academic year.

(N) Increment group shall mean a group organized by EFC in five hundred dollar (\$500) increments into which all eligible applicants are placed.

(O) Renewal recipient means a student who received an Access Missouri award, who meets the requirements set forth in section 173.1104, RSMo, and who has filed an accurate and complete application by the deadline established by the CBHE for the Access Missouri program.

(P) Residency, for the purpose of this rule, shall be determined by reference to the standards set forth in the determination of student residency rule, 6 CSR 10-3.010.

(Q) Satisfactory academic progress means that a student is successfully completing sufficient courses in his course of study to secure the certificate or degree toward which he is working in no more than the number of semesters or their equivalent normally required by the institution in which the student is enrolled

(2) Basic Eligibility Policy. To qualify for an Access Missouri award, an initial or a renewal recipient, at the time of his application and throughout the period during which he receives the award, must meet the requirements set forth in section 173.1104, RSMo.

(3) Application and Evaluation Policy.

(A) The CBHE shall annually prescribe the time and method for filing applications for financial assistance under the Access Missouri program. It shall make announcement of its action in these respects.

(B) Students shall apply annually for financial assistance under the Access Missouri program by completing and submitting the federal need-based aid application form as prescribed by the United States Department of Education.

(C) The department will evaluate each student's application for an Access Missouri award according to the student's EFC as calculated based on information provided in the student's federal need-based aid application form completed and submitted as prescribed by the United States Department of Education.

(D) Annual award amounts for renewal recipients may be increased or decreased based on a change in the financial condition of the applicant, the financial condition of the applicant's spouse or parents, or availability of funds for distribution during that award year.

(E) Exceptions to the department's procedures applicable to the Access Missouri program and reconsideration of applicants' need will take place only in unusual circumstances, such as death or disability of a wage earner, illness, or other economic reversal, and will

be considered on an individual basis only upon written request, submitted to the Missouri Department of Higher Education, Access Missouri Program, 3515 Amazonas Drive, Jefferson City, MO 65109.

(4) Award Policy.

(A) Access Missouri awards shall be allotted for one (1) award year.

(B) A renewal recipient may continue to receive a grant under the Access Missouri program so long as the applicant:

1. Maintains a cumulative grade point average of at least two and five-tenths (2.5) on a four-point (4.0) scale, or the equivalent on another scale;

2. Meets the satisfactory academic progress requirements as determined by the approved institution in which he is enrolled and as applied to other students at the approved institution receiving assistance under Title IV financial aid programs included in the Higher Education Act of 1965, with the exception of grade point average;

3. Otherwise meets the criteria of the Access Missouri program; and

4. Has not exceeded—

A. Five (5) semesters at two (2)-year institutions; or

B. A total of ten (10) semesters or fifteen (15) quarters at a four(4)-year institution or any combination of institutions.

(C) Initial and renewal recipients who meet the eligibility requirements set forth in sections 173.1101 through 173.1107, RSMo, and this rule shall be eligible for an Access Missouri award, with minimum and maximum annual award amounts as follows:

1. One thousand dollars (\$1,000) maximum and three hundred dollars (\$300) minimum for students attending institutions classified as part of the public two (2)-year sector;

2. Two thousand one hundred fifty dollars (\$2,150) maximum and one thousand dollars (\$1,000) minimum for students attending institutions classified as part of the public four (4)-year sector, including Linn State Technical College; and

3. Four thousand six hundred dollars (\$4,600) maximum and two thousand dollars (\$2,000) minimum for students attending approved private institutions.

(D) All students with an EFC of twelve thousand dollars (\$12,000) or less shall receive at least the minimum annual award amount for his institution. Maximum annual award amounts for recipients with an EFC above seven thousand dollars (\$7,000) shall be reduced by ten percent (10%) of the maximum EFC for his increment group.

(E) Maximum annual award amounts will be reduced as provided in section 173.1105, RSMo, across all institutional groups in order to ensure the total funds awarded through the Access Missouri program do not exceed the funds appropriated. If sufficient funds are appropriated, the department shall increase the number of recipients by raising the EFC cutoff once the statutory maximum awards have been met.

(F) A student who has been denied an Access Missouri award for lack of satisfactory academic progress or the grade point average requirement at 6 CSR 10-2.150(4)(B)1. may not receive another Access Missouri award until the enrollment period after the applicable standard has once again been met.

(G) No Access Missouri awards will be granted to a student after—

1. A baccalaureate degree has been granted to the student;

2. The required hours for a baccalaureate degree have been completed by a student; or

3. The student has completed one hundred fifty (150) semester hours or two hundred twenty-five (225) quarter hours of coursework.

(H) Access Missouri awards will be made for use during the normal academic year, but no funds for Access Missouri awards will be granted for use for summer school.

(I) No Access Missouri award will be made retroactive to a previous academic year. An Access Missouri award will be made retroac-

tive to a previous semester only upon the sole discretion of the department.

(J) Access Missouri awards will be issued only after certification of full-time attendance of the student by the institution. For a student enrolled as part of a consortium agreement, the student must be considered to be enrolled full-time at the home institution to be certified.

(K) Only one-half the annual Access Missouri award will be issued in a semester of that award year.

(L) An applicant's failure to provide required information by the established deadlines may result in loss of the Access Missouri award.

(M) The CBHE has the discretion to withhold payments of any Access Missouri awards after initiating an inquiry into the eligibility or the continued eligibility of a student or into the approved status of an institution.

(N) A student may transfer the Access Missouri award from one approved public or private institution to another without losing eligibility for assistance, but the CBHE shall make any necessary adjustments in the amount of the award.

(5) Information Sharing Policy. All information on an individual's Access Missouri application will be shared with the financial aid office of the institution to which the individual has applied or is attending to permit verification of data submitted. Information may be shared with federal financial aid offices if necessary to verify data furnished by the state or federal governments as provided for in the Privacy Act of 1974, 5 U.S.C. sections 552, 552a.

AUTHORITY: section 173.1103, (SS SCS SB 389, 94th General Assembly, First Regular Session (2007)). Emergency rule filed Aug. 28, 2007, effective Sept. 7, 2007, expires March 4, 2008. Original rule filed Oct. 12, 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 not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Higher Education, Financial Assistance, Outreach and Proprietary School Certification, Kelli Reed, Student Assistance Associate, 3515 Amazonas Drive, 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions**

PROPOSED RULE

12 CSR 10-110.621 Application of Sales Tax Exemption as Defined in Section 144.054, RSMo

PURPOSE: Section 144.054.2, RSMo, exempts from state sales and use tax and local use tax, but not local sales tax, electricity, gas (natural, artificial, or propane), water, coal, and energy sources used or consumed in manufacturing, processing, compounding, mining or producing any product or used in research and development related to manufacturing, processing, compounding, mining or producing any product or in the processing of recovered materials. This rule explains when this exemption applies.

(1) In general, electricity, gas (natural, artificial, or propane), water, coal, and energy sources, chemicals, machinery, equipment, and materials used or consumed in manufacturing, processing, compounding, mining or producing any product, or used or consumed in the processing of recovered materials, or used in research and development related to manufacturing, processing, compounding, mining or producing any product is exempt from state sales and use tax and local use tax, but not local sales tax.

(2) Definition of Terms.

- (A) Compounding—See 12 CSR 10-110.601.
- (B) Energy source—See 12 CSR 10-110.601.
- (C) Fabrication—See 12 CSR 10-111.010.
- (D) Manufacturing—See 12 CSR 10-111.010.
- (E) Material recovery processing plant—See 12 CSR 10-111.060.
- (F) Mining—See 12 CSR 10-111.010.
- (G) Producing—See 12 CSR 10-111.010.
- (H) Recovered materials—See 12 CSR 10-111.060.

(3) Basic Application of Exemption.

(A) A taxpayer may claim the exemption for state sales and use tax and local use tax, but not local sales tax at the time of purchase. A taxpayer may not claim an exemption from local tax and then remit the tax directly to the department. It is the seller's responsibility to collect and remit the proper amount of local tax to the department.

(4) Exempt Examples.

(A) A manufacturer purchases propane to operate forklifts that move raw materials between production lines. The fuel is exempt from state sales and use tax and local use tax, but not local sales tax.

(B) A manufacturer uses electricity to run its equipment, maintain a moderate temperature in its production facility and to light the interior of the plant. The purchase of all of its electricity is exempt from state sales and use tax and local use tax, but not local sales tax.

(C) A manufacturer uses coal to fuel boilers to generate steam used to manufacture a product. The purchase of the coal is exempt from state sales and use tax and local use tax, but not local sales tax.

(D) A manufacturer purchases compressed gas used for welding a product. The purchase of the compressed gas is exempt from state sales and use tax and local use tax, but not local sales tax.

(E) A manufacturer uses water to cool a product during the manufacturing process. The manufacturer's purchase of water is exempt from state sales and use tax and local use tax, but not local sales tax.

(F) A manufacturer preserves its final product in a warehouse located at the production facility awaiting shipment. The manufacturer's purchase of energy to maintain the desired temperature and provide lighting inside the warehouse is exempt from state sales and use tax and local use tax, but not local sales tax.

(G) A construction company, who has been deemed a manufacturer, purchases fuel to be used in a concrete ready-mix truck. The manufacturer's purchase of fuel is subject to motor fuel tax, however if a refund claim is made, the refund is exempt from state sales tax, but not local sales tax.

(H) A cabinetmaker creates cabinets or counter tops from raw materials for sale to contractors or customers. The cabinetmaker's purchases of energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing process are exempt from state sales and use tax and local use tax, but not local sales tax on items allowed under section 144.054, RSMo.

(I) A manufacturer builds mobile homes in its factory. The manufacturer's purchases of energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing process are exempt from state sales and use tax and local use tax, but not local sales tax on items allowed under section 144.054, RSMo.

(J) A manufacturer creates pre-fabricated steel and concrete products for sale to the public. The manufacturer's purchases of energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing process are exempt from state sales

and use tax and local use tax, but not local sales tax on items allowed under section 144.054, RSMo.

(K) A hobby shop builds a frame to enclose photographs or pictures. The hobby shop's purchases of energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing process of building the frame are exempt from state sales and use tax and local use tax, but not local sales tax on items allowed under section 144.054, RSMo.

(L) A company uses energy to test manufacturing equipment as it is installed. This energy is exempt from state sales and use tax and local use tax, but not local sales tax.

(M) A commercial printer uses energy sources, chemicals, machinery, equipment, and materials in its process. These items are exempt from state sales and use tax and local use tax, but not local sales tax.

(N) A telecommunication company produces a wireless or landline based telephone call. The energy sources, chemicals, machinery, equipment, and materials used by the telecommunication company to manufacture the phone call are exempt from state sales and use tax and local use tax, but not local sales tax.

(O) A bakery creates baked goods for sale directly to the public or through retailers. The energy sources, chemicals, machinery, equipment, and materials used by the bakery are exempt from state sales and use tax and local use tax, but not local sales tax.

(P) A factory purchases safety equipment such as earplugs and goggles for use by the employees on the manufacturing floor. These items used by the employees who are manufacturing a product are exempt from state sales and use tax and local use tax, but not local sales tax.

(5) Taxable Examples.

(A) A restaurant preparing food for immediate consumption is not exempt. Therefore, all state and local taxes apply.

(B) A wireless company operates a customer support call center to assist its customers with questions. The call center is not exempt. Therefore, all state and local taxes apply.

(C) The construction of a road, building, or other fixed structure is not exempt. Therefore, all state and local taxes apply.

(D) The activities of a florist are not exempt. Therefore, all state and local taxes apply.

(E) An auto repair facility repairs vehicles by installing or replacing parts. This is not exempt. Therefore, all state and local taxes apply.

(F) A butcher shop receives a side of beef and cuts it into steaks and hamburger. This is not exempt. Therefore, all state and local taxes apply.

(G) A manufacturer preserves its final product in a warehouse not located at the production facility. The purchase of energy to maintain the desired temperature and provide lighting inside the warehouse is not exempt due to the location of the warehouse. Therefore, all state and local taxes apply.

(H) A cable television provider's purchase of energy is not exempt. Therefore, all state and local taxes apply.

AUTHORITY: section 144.270, RSMo 2000 and TAFP CCS HCS SB 30, enacted by the 94th General Assembly (2007). Emergency rule filed Oct. 10, 2007, effective Oct. 20, 2007, expires April 16, 2008. Original rule filed Oct. 10, 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 not cost private entities more than five hundred dollars (\$500) in the aggregate.

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—[Division of Medical Services]
MO HealthNet Division
Chapter 1—Organization

PROPOSED AMENDMENT

13 CSR 70-1.020 Standards for Privacy of Individually Identifiable Health Information. The division is amending the purpose and sections (1), (3), (4), and (5).

PURPOSE: This amendment changes the name of the state's medical assistance program to MO HealthNet and revises the name of the program's administering agency to MO HealthNet Division to comply with state law. The amendment also changes reference to program recipients to participants.

PURPOSE: The state of Missouri, Department of Social Services, [Division of Medical Services] MO HealthNet Division, is committed to protecting the confidentiality of protected health information of applicants and [recipients] participants of the Medical Assistance [(Medicaid)] MO HealthNet Program. This rule describes how health care information about [Medicaid] MO HealthNet applicants and [recipients] participants may be used and disclosed and how [Medicaid recipients] MO HealthNet participants can get access to their personal health information.

(1) General Authority. There are many state and federal laws and regulations that safeguard applicants' and [recipients'] participants' protected health information. Section 1902(a)(7) of the federal Social Security Act requires that a state plan for medical assistance must provide safeguards which restrict the use or disclosure of information concerning applicants and [recipients] participants to purposes directly connected with the administration of the plan. The Health Insurance Portability and Accountability Act (HIPAA) represents the first comprehensive federal protection of patient privacy (45 Code of Federal Regulations, parts 160–164). Passed by the United States Congress in 1996, HIPAA sets national standards to protect personal health information, reduces health care fraud, and makes health coverage more portable. The entire health care industry must implement HIPAA, including state governments.

(3) Disclosures of Health Information Required or Allowed by Law. The Department of Social Services, the single state [Medicaid] MO HealthNet agency, may use an applicant's or [recipient's] participant's individually identifiable health information for treatment, payment, or health care operations. For example, individually identifiable health information may be used to determine disability for a public assistance program; when reviewing a request from the treating physician for a [Medicaid] MO HealthNet service that requires a prior approval; and when processing claims and other requests for medical care payments. The Department of Social Services, [Division of Medical Services] MO HealthNet Division may also report information for research purposes and matters concerning organ donations. The research must be for helping the [Medicaid] MO HealthNet program. The Department of Social Services, [Division of Medical Services] MO HealthNet Division shall report:

(G) To a provider or other insurance company who needs to know if a [recipient] participant is enrolled in one of the Department of Social Services programs;

(4) Other Uses and Disclosures Require the Applicant's or [Recipient's] Participant's Written Authorization. For other situations, the Department of Social Services will ask for the applicant's or [recipient's] participant's or their representative's written authorization before using or disclosing information. The applicant or [recipient] participant or their representative may cancel this authorization at any time in writing. The Department of Social Services cannot take back any uses or disclosures already made with the applicant's or [recipient's] participant's or their representative's authorization.

(5) Applicant or [Recipient] Participant Rights to Restrict or Request Protected Health Information. An applicant or [recipient] participant or their representative has the right to:

(D) Request a list of medical information the Department of Social Services shared that was not for treatment, payment, or health care operations or as required by federal law. Beginning in April 2003 an applicant or [recipient] participant or their representative can get a list of where their health information has been sent, unless it was sent for treatment, payment, checking to make sure they received quality care, or to make sure the laws are being followed, on forms prepared by the Department of Social Services.

1. If the individual requests a copy of the protected health information or agrees to a summary or explanation of such information, the covered entity may impose a reasonable, cost-based fee, provided that the fee includes only the cost of:

A. Copying, including the cost of supplies for and labor of copying, the protected health information requested by the individual;

B. Postage, when the individual has requested the copy, or summary or explanation, be mailed;

C. Preparing an explanation or summary of the protected health information; and

D. Requests for information in other formats such as diskettes, audio/video tapes, slides, will be invoiced at the rate the agency actually paid for the format used.

AUTHORITY: section 208.201, RSMo 2000 as amended by SB 577, 94th General Assembly, First Regular Session (2007). Original rule filed Feb. 3, 2003, effective Sept. 30, 2003. Amended: Filed Oct. 12, 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, MO HealthNet 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*. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—[Division of Medical Services]
MO HealthNet Division
Chapter 4—Conditions of [Recipient] Participant
Participation, Rights and Responsibilities

PROPOSED AMENDMENT

13 CSR 70-4.030 [Recipient] Participant Liability for Medical Services Not Reimbursable to the Provider by the [[Medicaid]] MO HealthNet Agency. The division is amending the title, purpose and sections (1), (2), and (3).

PURPOSE: This amendment changes the name of the state's medical assistance program to MO HealthNet and revises the name of the program's administering agency to MO HealthNet Division to comply with state law. The amendment also changes reference to program recipients to participants.

PURPOSE: This rule establishes the guidelines for determination of [recipient] participant liability for medical services not reimbursable to the provider by the [Medicaid] MO HealthNet agency.

(1) When an enrolled [Medicaid] MO HealthNet provider provides an item or service to a [Medicaid recipient] MO HealthNet participant eligible for the item or service on the date provided, there shall be a presumption that the provider accepts the [recipient's Medicaid] participant's MO HealthNet benefits and seeks reimbursement from the [Medicaid] MO HealthNet agency in accordance with all of the applicable [Medicaid] MO HealthNet rules. This presumption shall be overcome only by written evidence of an agreement between the provider and the [recipient] participant indicating that [Medicaid] MO HealthNet is not the intended payor for the specific item or service but rather that the [recipient] participant accepts the status and liabilities of a private pay patient. All third-party resource benefits must be exhausted before payment will be made by the division for the item or service rendered to that [recipient] participant. For purposes of this rule, neither the provider nor the [recipient] participant shall be required to exhaust all third-party resources in those situations where the provider or [recipient] participant elect not to pursue contingent liability from a third-party tortfeasor. Both the provider and the [recipient] participant have an affirmative duty to report the existence of contingent liability to the [Division of Medical Services] MO HealthNet Division and the [recipient] participant has the duty to cooperate with the [Division of Medical Services] MO HealthNet Division if the division elects to pursue the contingent liability.

(2) When an item or service is rendered to a [Medicaid recipient] MO HealthNet participant who was eligible for the item or service on the date provided and provision of the item or service is billed to the [Medicaid] MO HealthNet agency by an enrolled [Medicaid] MO HealthNet provider who is not reimbursed by the agency for the item or service claimed, the item or service will not be the liability of the [recipient] participant if the item or service would have been otherwise payable by the [Medicaid] MO HealthNet agency at the [Medicaid] MO HealthNet allowable amount had the provider followed all of the policies, procedures and rules applicable to the item or service as of the date provided. If the item or service is not otherwise payable for reasons unrelated to the actions of the provider, the [recipient] participant is liable to the provider for payment of the item or service.

(3) The creation of a presumptive acceptance by a provider of the [Medicaid] MO HealthNet benefits for a [Medicaid] MO HealthNet covered service and the requirement for written evidence of an agreement to overcome presumptive acceptance, as established in this rule, shall not be applicable to services provided to a [recipient] participant who is dually eligible and entitled to both [Medicaid] MO HealthNet and Medicare Part B medical insurance benefits.

AUTHORITY: 207.020 RSMo [1986] 2000 and 208.152 and 208.153 as amended by SB 577, 94th General Assembly, First Regular Session (2007). This rule was originally filed as 13 CSR 40-81.140. Original rule filed April 16, 1985, effective July 11, 1985.

Amended: Filed March 2, 1988, effective May 12, 1988. Amended: Filed Oct. 12, 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, MO HealthNet 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. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

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

PROPOSED AMENDMENT

13 CSR 70-4.040 Eligibility Corrective Action [Recipient] Participant Payments. The division is amending the title, purpose and section (1).

PURPOSE: This amendment changes the name of the state's medical assistance program to MO HealthNet and revises the name of the program's administering agency to MO HealthNet Division to comply with state law. The amendment also changes reference to program recipients to participants.

PURPOSE: This rule establishes the basis on which [recipients] participants may be reimbursed by the [Medicaid] MO HealthNet program for Title XIX services and for services covered under state-only types of assistance programs and after this referred to as [Medicaid] MO HealthNet paid by them to providers between the date of the initial agency decision denying their eligibility and the date of the agency or court decision establishing their eligibility for [Medicaid] MO HealthNet.

(1) All [recipients] participants whose eligibility for [Medicaid] MO HealthNet benefits is denied and whose eligibility is subsequently established as a result of an agency hearing decision, a court decision based on an agency hearing decision or any other final agency decision rendered on or after January 1, 1986 may be reimbursed by the [Medicaid] MO HealthNet agency for [Medicaid] MO HealthNet services paid by the [recipients] participants to providers between the date of the agency decision denying their eligibility and the date of the agency or court decision establishing their eligibility for [Medicaid] MO HealthNet benefits.

(A) Payments to a [recipient] participant will be made only for medical services which were covered services at the time provided in accordance with [Medicaid] MO HealthNet program benefits, limitations and requirements applicable to the services or the [recipient] participant as of the date provided, except that prior authorization requirements will not apply.

(B) Payments may be made for services of either an enrolled [Medicaid] MO HealthNet provider or for providers who do not participate in [Medicaid] MO HealthNet.

(C) Payments to a [recipient] participant will be limited to the lesser of the [Medicaid] MO HealthNet allowable amount for the

covered item or service as of the date provided or the aggregate amount paid by the *[recipient]* participant for the covered item or service.

(D) Any medical expenses paid by the *[recipient]* participant which are for the purpose of meeting that *[recipient's]* participant's spenddown obligation are not payable.

(E) All third-party resource benefits received by the *[recipient]* participant for *[Medicaid-]* MO HealthNet-covered services must be applied against the lesser of the *[Medicaid]* MO HealthNet allowable amount for the covered item or service as of the date provided or the aggregate amount paid by the *[recipient]* participant for the covered item or service. No payment shall be made to the *[recipient]* participant until all third-party resource benefits have been exhausted as would have been applicable to *[recipients]* participants receiving *[Medicaid]* MO HealthNet. For purposes of this rule, neither the provider nor the *[recipient]* participant shall be required to exhaust all third-party resources in those situations where the provider or the *[recipient]* participant elects not to pursue contingent liability from a third-party tortfeasor. Both the provider and the *[recipient]* participant have an affirmative duty to report the existence of contingent liability to the *[Division of Medical Services]* MO HealthNet Division and the *[recipient]* participant has the duty to cooperate with the *[Division of Medical Services]* MO HealthNet Division if the division elects to pursue the contingent liability.

(F) As evidenced by the *[Medicaid]* MO HealthNet agency's date of receipt, the *[recipient]* participant or person legally responsible will have one (1) year from the date of the final agency or court decision establishing eligibility to submit all written requests for *[recipient]* participant payment to the *[Medicaid]* MO HealthNet agency with sufficient documentation to determine the appropriate reimbursement amount under the applicable provisions of subsections (1)(A), (C) and (E) for the *[Medicaid-]* MO HealthNet-covered items or services paid by the *[recipient]* participant.

AUTHORITY: sections 208.153 and 208.201, RSMo 2000 as amended by SB 577, 94th General Assembly, First Regular Session (2007). This rule previously filed as 13 CSR 40-81.141. Original rule filed April 16, 1985, effective Jan. 1, 1986. Amended: Filed Jan. 22, 1992, effective Sept. 6, 1992. Amended: Filed May 1, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 12, 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, MO HealthNet 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*. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

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

**Division 10—General Administration
Chapter 1—Organization**

PROPOSED AMENDMENT

20 CSR 10-1.010 General Organization. The department is amending sections (1) through (5).

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

PURPOSE: This rule reflects the current organization of the Department of Insurance, Financial Institutions and Professional Registration.

(1) The *[Missouri]* Department of Insurance *[(MDI)]* was reorganized on February 1, 2006 by Executive Order 06-04 under the name Department of Insurance, Financial Institutions and Professional Registration ("department").

(2) The department is organized *[into four (4)]* with seven (7) divisions: Consumer Affairs Division, *[Financial Regulation]* Insurance Company Regulation Division, Insurance Market Regulation Division, Division of Finance, Division of Credit Unions, Division of Professional Registration and Resource Administration Division. The *[main]* director's office is located in the Truman State Office Building, 301 West High Street, 16/5th Floor, Jefferson City, MO 65101. *[Two (2) branch offices are maintained in major metropolitan areas to provide any necessary functions. They are located at 111 North Seventh Street, Wainwright Building, Room 229, St. Louis, MO 63101-2167, (314) 340-6830 and 615 East 13th Street, Room 512, Kansas City, MO 64106-2829, (816) 472-2381.]* The Consumer Affairs Division and the central offices for the Insurance Company Regulation Division and the Insurance Market Regulation Division are in the same facility as the department director. The central office of the Division of Finance is located in the Truman Building, 301 W. High Street, 6th Floor, Jefferson City, MO 65101. The central office for the Division of Credit Unions is located in the Truman Building, 301 W. High Street, 7th Floor, Jefferson City, MO 65101. The central offices of the Division of Professional Registration are maintained at 3605 Missouri Boulevard, Jefferson City, MO 65102.

(3) A toll-free insurance consumer hotline is also maintained by the department: (800) 726-7390.

[(2)](4) Administration. The director is responsible for the administration of the department *[with the assistance of the following persons:]* and serves as the insurance commissioner in the National Association of Insurance Commissioners (NAIC). The director may appoint a deputy director and may delegate various administrative responsibilities to the deputy director. The administrative responsibilities of the director may also be delegated to the Resource Administration Division, which is managed by a division director. The director may appoint a general counsel, who manages attorneys who may serve in the general counsel's office or legal section, or may be assigned on a full-time basis to a particular division. The general counsel and the department's legal staff are available for daily consultation with the director and other members of the staff in all functional areas within the department. The general counsel or attorneys in the legal section assist and advise the director, division directors and the staff in the interpretation and enforcement of the insurance laws, represent the director in court appearances or in hearings before the Administrative Hearing Commission concerning the discipline or disqualification of licensed individuals, or represent division directors in enforcement actions or in hearings involving

acquisitions, mergers and reinsurance agreements before the director. The director may also appoint the general counsel or another attorney to serve as hearing officer on behalf of the department director.

(5) Divisions. The director administers the regulatory responsibility of the Consumer Affairs Division, the Insurance Company Regulation Division, and the Insurance Market Regulation Division, but has delegated some statutory powers and functions to division directors of those three (3) divisions. The Division of Finance, the Division of Credit Unions and the Division of Professional Registration are state agencies assigned to the department by Type III transfer, and maintain statutory autonomy. All seven (7) divisions are managed by division directors:

(A) Director of Consumer Affairs. Insurance complaints or inquiries about policy coverage, unpaid claims, refusals of insurance, the meaning of policy language and any other questions or complaints arising from the treatment of the consumer by an insurance company, health service corporation, health maintenance organization or insurance producer should be directed to the Consumer Affairs Division. Complaints and inquiries regarding insurance are to be investigated by the Consumer Affairs Division, PO Box 690, 301 West High Street, Jefferson City, MO 65102, (800) 726-7390. The director of consumer affairs manages the following regulatory functions:

1. Consumer services. The consumer services section receives and investigates complaints and inquiries relating to insurance companies, health service corporations, health maintenance organizations and other companies authorized to do business by the Insurance Company Regulation Division. Each complaint received is investigated. No complaint filed is closed until the complaint is resolved or the director is satisfied that the person or entity complained against has taken a fair and reasonable position or one which is legally defensible. Records of each complaint and its disposition are kept and indexed by company and type of complaint;

2. Special investigations. The special investigations section investigates complaints against licensed insurance producers, bail bond agents, insurance adjusters and other individuals who are otherwise engaged in illegal unlicensed activity. This section also investigates complaints of insurance fraud by insurers, producers or claimants; and

3. Administrative enforcement. The general counsel assigns attorneys to represent the Consumer Affairs Division in administrative enforcement actions before the director.

[(A)](B) Director of [the Division of] Insurance Market Regulation. The director of insurance market regulation [assists the department director in overseeing] manages the following regulatory [activities of the following persons] functions:

1. Market conduct [examination]. The market conduct [examination program] section reviews company operations, including those of health maintenance organizations [(HMOs)], third-party administrators, utilization review firms and health service corporations, in the areas of marketing, licensing, rates, underwriting, claims and competitive trade practices. These examinations are triggered by market analysis, which may involve complaints received by the Consumer Affairs Division or other indications that violations of law or regulation have occurred. Market conduct examinations include a review and analysis of rate structures, rate applications, policy forms and endorsements, policy filings, selection and termination of coverage procedures, marketing and sales practices, claim practices and procedures, and licensing of [agents, agencies and brokers] producers, advertising, consumer complaint handling and unclaimed property reporting procedures;

2. Life and health. The life and health section must review and approve all policy contracts and supplemental forms filed by insurance companies, health services corporations and [HMOs] health maintenance organizations before they may be offered to the

Missouri insurance-buying public. These policies and forms include coverages for medical hospital expense, major medical, disability income, hospital cash indemnity, loss of time, accidental death and dismemberment and special coverage policies. The life and health section must review and approve all life insurance policy contracts and supplemental forms filed by insurance companies before they may be offered to the Missouri insurance-buying public;

3. Property and casualty. The property and casualty section reviews and files submissions by insurance companies, rating organizations, syndicates, pools and joint underwriting associations. These submissions consist of policy contracts and supplemental forms, various reports and other required filings concerning the insurance of automobile, fire and allied lines, homeowners, farm owners, inland marine, casualty, surety, commercial multiperil, title and [W/workers' [C]compensation [and]]. The filings also involve reporting major changes, coverage or rates to the [director] division. This section also approves [W/workers' [C]compensation policies, endorsements, classifications, rates and ratemaking plans; [and]

4. Statistics. The statistics section is responsible for compiling and evaluating all statistical data submitted by companies as required by Missouri statutes and regulations. Statistics also develops historical, local, regional and national statistical analysis of trends and variation in insurance claim incidence or other factors such as loss development factors related to insurance rate development; and

5. Regulatory enforcement. The general counsel assigns attorneys to represent the insurance market regulation division in regulatory enforcement actions before the director.

[(B) Director of the Division of Resource Administration. The director of resource administration assists the department director in overseeing the operations of the following sections:

1. Licensing. The licensing section is responsible for receiving applications for agent, agency, broker, third-party administrator, public adjuster and public adjuster solicitor licenses; maintaining permanent records of licensure; and issuing, renewing and terminating those licenses. It supervises the prelicensing educational course and approves schools and instructors. This section also oversees the examination process required of agents and brokers. This section also supervises the continuing education program for agents and brokers;

2. Support services. The support services section is responsible for the departmental budget and all permanent records in the office concerning companies. Support services also supervises accounting functions of the department;

3. Management information systems. This section is responsible for supervising the data processing functions of the department; and

4. Personnel. This section is responsible for personnel management for the department; and

(C) Director of the Division of Consumer Affairs. The director of consumer affairs assists the department director in overseeing the operations of the following sections:

1. Consumer services. General complaints and inquiries from the general public concerning all matters relating to insurance companies, health service corporations and HMOs are received and investigated by this section. Each complaint received is investigated. No complaint filed is closed until the complaint is resolved or the director is satisfied that the person complained against has taken a fair and reasonable position or one which is legally defensible. Records of each complaint and its disposition are kept and indexed by company and type of complaint; and

2. Special investigation. This section investigates complaints against any licensed person selling insurance or bail bonds or adjusting losses. This section also investigates complaints of consumer fraud.]

[(D)](C) Director of *[the Division of Financial]* **Insurance Company Regulation**. The director of *[financial regulation, who is also] insurance company regulation* may also serve as the chief financial examiner*], assists the department director in overseeing]* under the NAIC protocol. The director of insurance company regulation manages the following regulatory *[activities]* functions:

1. Financial examination. *[This division]* **The financial examination section** is responsible for examining the financial condition and affairs of Missouri insurance companies. It also participates in examinations of insurance companies domiciled in other states and doing business in Missouri;

2. Premium tax. *[This division]* **The premium tax section** assists the Department of Revenue in the collection of all premium taxes due the state;

3. Company admissions. *[This division]* **The company admissions section** initiates the processing of applications for licensing in Missouri of all foreign insurance companies and conducts pre-licensing examinations of all newly-formed domestic insurance companies. Third-party administrators are also licensed by the *[division]* section;

4. Financial analysis. *[This division]* **The financial analysis section** receives audits and files financial statements, including the annual statement, a detailed accounting of pertinent financial data of each insurance company authorized to do business in Missouri;

5. Security deposits. *[This division also]* **The security deposits section** supervises security deposits, withdrawals and replacements; *[and]*

6. Surplus lines. **The [S]surplus lines [licenses are also examined and supervised by the division of financial regulation.] section** licenses and examines surplus lines brokers; and

7. Regulatory enforcement. The general counsel assigns attorneys to represent the Insurance Company Regulation Division in regulatory enforcement actions before the director.

(D) Director of Resource Administration. In addition to assisting the department director in administrative responsibilities, the director of resource administration manages the following regulatory functions:

1. Insurance licensing. The insurance licensing section is responsible for receiving license applications for insurance producers, third-party administrators, bail bond agents, public adjusters and public adjuster solicitors; maintaining permanent records of licensure; and issuing, renewing and terminating those licenses. It supervises the prelicensing educational course and approves schools and instructors. This section also oversees examination and continuing education programs. Forms relating to licenses may be obtained via the website at www.difp.mo.gov or may be requested by mailing a request to Insurance Licensing, PO Box 690, 301 West High Street, Jefferson City, MO 65102, (573) 751-3518.

(E) Finance. The director of finance manages regulatory functions over banks and trust companies, consumer credit companies, mortgage brokers, and savings and loan associations. The director continues to serve under the customary title of commissioner of finance. The organization of the Division of Finance is found at rule 20 CSR 1140-1.010.

(F) Credit Unions. The director of credit unions manages regulatory functions over credit unions. The organization of the Division of Credit Unions is found at rule 20 CSR 1100-1.010.

(G) Professional Registration. The director of professional registration manages the permanent staff employed to assist regulatory boards and commissions, which possess the statutory powers and duties to license qualified professions. The organization of the Division of Professional Registration is found at rule 20 CSR 2231-1.010.

[(3)] The following persons perform staff functions for the department under the supervision of the department director:

(A) Administrative Assistant. The administrative assistant assists the director in overseeing the administration of the following areas: internal audit, legislation, public information and special projects; and

(B) General Counsel. The department's legal staff are available for daily consultation with the director and other members of the staff in all functional areas within the department. The legal section operates under the direction of the general counsel. The legal section assists and advises the director and the staff in the interpretation and enforcement of the insurance laws, represents the director in court appearances, hearings before the director involving acquisitions, mergers and reinsurance agreements and actions before the Administrative Hearing Commission concerning the revocation of agent, agency, broker and public adjuster licenses. The legal staff also serves as hearing officer in department hearings in the absence of the department director; and

(C) Deputy Director. The deputy director, who acts as department director in his/her absence, is primarily responsible for program development within the department. The deputy director maintains staff and advisory relationships with selected divisions, assists in legislative efforts and performs functions as delegated by the department director.

(4) Public Access to the Department of Insurance.

(A) General. Any complaint, request, inquiry, submission or other communication not specified otherwise in this section should be addressed in writing to Director of Insurance, P.O. Box 690, 301 West High Street, 6th Floor, Jefferson City, MO 65102.

(B) Branch Offices. Branch offices are maintained for consumer inquiries, complaints and investigations at the locations set out in section (1) of this rule.

(C) Licensing. Requests for forms relating to licenses should be mailed to Supervisor of Licensing, Missouri Department of Insurance, P.O. Box 690, 301 West High Street, Jefferson City, MO 65102, (573) 751-3518. Complaints against the business activities of any licensed person selling insurance or bail bonds or adjusting losses should be made to the Special Investigations Unit, Missouri Department of Insurance, P.O. Box 690, 301 West High Street, Jefferson City, MO 65102, (573) 751-2640.

(D) Consumer Complaints and Inquiries. Consumer complaints or inquiries about policy coverage, unpaid claims, refusals of insurance, the meaning of policy language and any other questions or complaints arising from the treatment of the consumer by an insurance company, health service corporation or HMO should be directed to the appropriate branch offices listed in section (1) of this rule or to Consumer Services, Missouri Department of Insurance, P.O. Box 690, 301 West High Street, Jefferson City, MO 65102, (800) 726-7390.

(E) Custodian of Records. Pursuant to section 610.023, RSMo, the director is the custodian of records and has appointed the director of the Division of Resource Administration as the person who is to be responsible for the maintenance of the Department of Insurance's records. The director of the Division of Resource Administration is located at the offices of the Department of Insurance, P.O. Box 899, 301 W. High Street, Jefferson City, MO 65102. Further information regarding the custodian and the release of information on any meeting, record or vote is contained in 20 CSR 10-2.]

AUTHORITY: sections 374.045, RSMo [Supp. 1995] 2000 and 536.023 and 610.023, RSMo [1994] Supp. 2006. This rule was previously filed as 4 CSR 190-1.010. Original rule filed Jan. 28, 1975, effective Feb. 10, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 10—General Administration
Chapter 1—Organization**

PROPOSED RESCISSION

20 CSR 10-1.020 Interpretation of Referenced or Adopted Material. The director is proposing to rescind this rule and promulgate it in other divisions.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 24, 1992, effective Aug. 9, 1993. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rescission at 10:00 a.m. on December 18, 2007 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 rescission, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 10—General Administration
Chapter 2—[Sunshine Rules (Public Meetings and
Records)]**

PROPOSED AMENDMENT

20 CSR 10-2.100 Custodian of Records. The director is amending “Custodian of Records” paragraph, numbering it as section (1) and adding sections (2), (3) and (4).

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule.

(1) [Custodian of] Records of the director and the consumer affairs, insurance market regulation, insurance company regulation and resource administration divisions. Pursuant to section 610.023, RSMo, the director is the custodian of records, but s/he of the department, except those records that are required by statute to be maintained by the director of finance, director of credit unions, director of professional registration, or any agency, board or commission assigned to those divisions. The department director has delegated to the director of the [Division of] Resource Administration Division the task of acting as the custodian who is to be responsible for the maintenance of the records of the [Missouri Department of Insurance (MDI)] department relating to the director’s powers and duties under Chapters 354, and 374 through 385, RSMo, or any other provision relating to the business of insurance, or duties, powers or functions delegated to the Consumer Affairs Division, the Insurance Company Regulation Division, the Insurance Market Regulation Division, or the Resource Administration Division. The director of [the Division of R/resource A]administration is located at [the offices of the MDI,] PO Box 690, Truman Building, Room 530, 301 West High Street, Jefferson City, MO 65102. Further information regarding the organization of the [MDI] department is contained in 20 CSR 10-1.010.

(2) Division of Finance Records. Pursuant to section 610.023, RSMo, the director of finance is the custodian of records of the Division of Finance and the State Banking Board. The director of finance is located at PO Box 716, Truman Building, Room 630, 301 West High Street, Jefferson City, MO 65102.

(3) Division of Credit Union Records. Pursuant to section 610.023, RSMo, the director of credit unions is the custodian of records of the Division of Credit Unions and the Credit Union Commission. The director of credit unions is located at PO Box 1607, Truman Building, Room 720, 301 West High Street, Jefferson City, MO 65102.

(4) Division of Professional Registration Records. Pursuant to section 610.023, RSMo, the director of professional registration is the custodian of records of the Division of Professional Registration. Each board and commission assigned to the Division of Professional Registration may designate an executive director in the division as the custodian of records for that particular board or commission. The director of professional registration is located at PO Box 1335, 3605 Missouri Boulevard, Jefferson City, MO 65102.

AUTHORITY: section 374.045, RSMo [Supp. 1995] 2000 [and 610.023, RSMo 1994]. This rule was previously filed as 4 CSR 190-1.020(1). Original filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed April 25, 1996, effective Dec. 30, 1996. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

Division 10—General Administration

**Chapter 2—[Sunshine Rules (Public Meetings and
Records)]**

PROPOSED AMENDMENT

20 CSR 10-2.200 Release of Information. The director is amending the “Release of Information” paragraph and numbering “Release of Information” paragraph as section (1) to this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule.

(1) Release of Information. Pursuant to section 610.028, RSMo, the provisions of 20 CSR 10-2 constitute the [Missouri Department of Insurance’s (MDI)] department’s reasonable written policy in compliance with sections 610.010–610.030, RSMo, open to public inspection, regarding the release of information on any meeting, record or vote. **This policy must be applied in a manner consistent with other state and federal laws placing restrictions on the records of the department and its divisions, boards and commissions.**

AUTHORITY: section 374.045, RSMo [1986] 2000 [and 610.028, RSMo 1989.]. This rule was previously filed as 4 CSR 190-1.020(2). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Jan. 15, 1992, effective June 25, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

Division 10—General Administration

**Chapter 2—[Sunshine Rules (Public Meetings and
Records)]**

PROPOSED AMENDMENT

20 CSR 10-2.300 Meetings. The department is amending the purpose clause and sections (1) and (2) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

PURPOSE: This rule complies with sections 610.023 and 610.028, RSMo regarding [release of information] open meetings.

(1) [Application of Sunshine Law] Public Governmental Bodies.

(A) Department. The [Missouri Department of Insurance (MDI)] department is a public governmental body under section 610.010(2), RSMo, for purposes of meetings. The [MDI] department is [conducting a public meeting and] meeting as a public governmental body and conducting a public meeting whenever a majority of the employees of the [MDI] department are allowed, invited or required to attend the meeting for the purpose of discussing or deciding the department’s functions. **Public meetings do not include social gatherings where there is no intent to avoid the purposes of Chapter 610, RSMo.** Public meetings of the [MDI] department also include rulemaking hearings and contested case hearings before the [MDI] director in [its quasi-judicial] the director’s administrative or adjudicative capacity. Contested case hearings include only those hearings at which the [hearing officer of the case] director or an appointed hearing officer presides and of which all parties to the case have notice.

(B) [Neither the director nor any single employee or agent of the MDI shall be considered a public governmental body under section 610.010(2), RSMo for purposes of meetings because a single member body cannot have meetings.]

Divisions. The divisions of the department are each public governmental bodies under section 610.010(2), RSMo, for purposes of meetings. A division is conducting a public meeting and meeting as a public governmental body whenever a majority of the employees of the division are allowed, invited or required to attend the meeting for the purpose of discussing or deciding the department's functions. Public meetings do not include social or ministerial gatherings where there is no intent to avoid the purposes of Chapter 610, RSMo. Public meetings of the division also include rulemaking hearings and contested case hearings before a division director in the director's administrative or adjudicative capacity. Contested case hearings include only those hearings at which the director or an appointed hearing officer presides and of which all parties to the case have notice.

(C) [Notwithstanding any other provision of this rule, a public meeting does not include an informal gathering of members of the MDI for ministerial or social purposes when there is no intent to avoid the purposes of Chapter 610, RSMo.] **Boards, Commissions, and Advisory Committees.** The various boards, commissions and advisory committees, whether created by statute or by executive order of the governor are each public governmental bodies under section 610.010(2), RSMo, for purposes of meetings.

(D) Any meeting of the MDI described as a public meeting shall be open to the public, except to the extent of any applicable provision of section 610.021, RSMo. No meeting which is not described in this rule as a public meeting shall be open to the public.]

(D) **Sections and Other Organizational Units.** Other organizational units within the department are not public governmental bodies under section 610.010(2), RSMo. Neither the director nor any single employee or agent of the department shall be considered a public governmental body under section 610.010(2), RSMo for purposes of meetings because a single member body cannot have meetings.

(E) The department, division, board, commission or committee official leading the public meeting shall ensure public notice of the meeting is given under section 610.020, RSMo, whether the meeting remains open or by vote may be closed. Such official shall also ensure minutes of the meeting are created and maintained.

(F) In addition to any meetings that are public by law, any meeting of the department or one of its divisions, boards, commissions or committees that has been announced as a public meeting shall be open to the public, except to the extent of any applicable provision of section 610.021, RSMo. No meeting which is not described in this rule as a public meeting shall be open to the public.

(2) Notice.

(A) Except as otherwise set forth in this rule, notice of the time, date and place of any public meeting open to the public, and its tentative agenda, shall be posted in the reception area to the principal office of the [MDI] department and the relevant division at least twenty-four (24) hours prior to the commencement of the meeting, unless circumstances under section 610.020, RSMo, dictate otherwise. Copies of the notice shall be made available to any representative of the news media who requests notice of a particular meeting at least twenty-four (24) hours prior to the commencement of the meeting.

(B) The provisions of subsections 610.020.2, and 3, RSMo shall apply to any meeting not held at the principal office of the MDI or held upon fewer than twenty-four (24) hours' notice.

(C) (B) Notice of any hearing on a [P]proposed [R]rulemaking shall be given by publication in the Missouri Register under section 536.021.2(6), RSMo.

AUTHORITY: section[s] 374.045, RSMo [1986] 2000 [and 610.028, RSMo Supp. 1989]. This rule was previously filed as

4 CSR 190-1.020(2)(A). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Jan. 15, 1992, effective June 25, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 10—General Administration
Chapter 2—[Sunshine Rules (Public Meetings and
Records)]**

PROPOSED AMENDMENT

20 CSR 10-2.400 Records. The director is amending the purpose and sections (1), (3), (4), (5), (6), and (8) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

PURPOSE: This rule complies with sections 610.023 and 610.028, RSMo regarding public records.

(1) Access. Any member of the public may have access to any open record of the [Missouri Department of Insurance (MDI)] department. As used in this rule, [MDI] the department includes the director, deputy director, division directors, and any employee or agent of the [MDI] department acting in his/her official capacity. Written request must be made of the custodian of records before access will be granted. Telephone requests may be granted at the discretion of the custodian of records.

(3) Closed Records. Any closed record is not subject to disclosure. The following list is the exclusive list of closed records of the [MDI] department and its divisions:

(A) Any communication relating to current or contemplated administrative, civil or criminal regulatory or enforcement action whatsoever, between [a] the director, deputy director, division directors, general counsel, any member of the [MDI] department or a division within the department or its representatives and its attorneys (see section 610.021(1), RSMo);

(B) Work product of any attorney for the *[MDI] department* or its representatives (see section 610.021(1), RSMo);

(C) Any record which relates to leasing, purchase or sale of real estate by the *[MDI] department* where public knowledge of the transaction might adversely affect its legal consideration (see section 610.021(2), RSMo);

(E) Testing and examination materials prepared by or under contract with the *[MDI] department* (see section 610.021(7), RSMo). Tests and examinations are repeated indefinitely;

(F) Preparation, including any discussions or work product, on behalf of the *[MDI] department* or its representatives for negotiation with employee groups (see section 610.021(9), RSMo);

(H) Specifications for competitive bidding, until either the specifications are officially approved by the *[MDI] department* or the specifications are published for bid (see section 610.021(11), RSMo);

(J) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment (see section 610.021(13), RSMo). These records include, but are not limited to, personnel files and records which identify an individual employee or applicant and state any information about the employee or applicant, such as time spent on particular tasks or performance appraisals. Records which merely identify an employee as its author or as the person to whom the record was directed are not closed records under this subsection. The names, positions, salaries and lengths of service of officers and employees of the *[MDI] department* once they are employed are not closed records under this subsection. Salaries means the annual wages paid to the officer or employee;

(K) Records *[which are]* protected from disclosure by law. *[[see] Records of the department and its divisions, which are closed by operation of section 610.021(14), RSMo]]. These records], and other statutory provisions includ[e]ing*, but are not limited to, the following:

1. *[Work product, work papers and confidential communications of the director, his/her employees and agents] Insurance examination and investigation records* under section 374.070.1, RSMo.

A. Work product and work papers/. *Work product]* of examinations of companies and investigations of companies[, and insurance producers **are closed**. “Work papers” means records produced by the director, his/her employees or agents in the course of the author’s duties, during and pursuant to the examination or investigation, including any examination or investigation report. “Work papers” do not, however, include communications between an examiner or investigator and other employees or agents of the *[MDI] department*. These communications may be confidential communications, but are not work papers. Except as otherwise provided in this rule or by applicable law, work papers shall not become open to public inspection.

B. Confidential communications to the *[Department of Insurance] department are closed*. “Confidential communications” means any communication produced by the director, his/her employees or agents in the course of the author’s duties, which communication is intended by the author to be accessible only by employees or agents of the *[MDI] department*. The author is presumed to have intended to limit access to employees or agents of the *[MDI] department* if the communication was directed to him/herself, a/n *[MDI] department* file, or another employee or agent of the *[MDI] department*, with no indication that it was directed or that a copy was provided to anyone who was not then an employee or agent of the *[MDI] department*. A confidential communication becomes an open record if and only if the director so decides in writing with reference to the specific communication under consideration; *[and]*

2. Trade secret of **persons** under sections 417.450–417.467, RSMo. *[The MDI will not disclose information that is] Records containing any* trade secret under section 417.453(4), RSMo/

where such disclosure would constitute a misappropriation under section 417.453(2), RSMo.] are closed records if the trade secret has been reasonably designated as such. If the trade secret can be redacted from a record that is otherwise open, the record may be open. The director may employ reasonable procedures to evaluate claimed trade secrets under paragraph (3)(L)8. of this rule, and may open records determined to not contain trade secrets under those procedures;

3. **Insurance producer registry under section 375.022, RSMo**. Any information filed by an insurance company or obtained by the *[MDI] department* pursuant to section 375.022, RSMo and any document, record or statement required by the *[MDI] department* under the provisions of section 375.022, RSMo;

4. *[Court papers, reports and other records relating to any conservatorship action under section 375.565, RSMo, except as the court may otherwise order;] Insurance examination records under section 374.205, RSMo*. All working papers, recorded information, documents and copies thereof in the course of an examination are confidential;

5. **Insurance investigation records under sections 374.071 and 374.190, RSMo**. All records, books, papers, documents obtained pursuant to an inquiry into or investigation of an insurance company or producer under section 374.190, RSMo are closed;

[5.]6. Report [and recommendations made by the board of directors] of the Missouri Property and Casualty Guaranty Association under section 375.776.5(3), RSMo. Any report or recommendation by the guaranty association to the *[MDI] department* upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer *[[see] or to the solvency of any company seeking to do insurance business in this state is confidential under section 375.776.5(3), RSMo]];*

7. **Reports of the Missouri Life and Health Insurance Guaranty Association under section 376.743, RSMo**. Any report or recommendation by the guaranty association to the director upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or to the solvency of any company seeking to do insurance business in this state is confidential under section 376.743, RSMo;

[6.]8. Insurer registration and examination records under section 382.230, RSMo. All information, documents and copies obtained by or disclosed to the *[MDI] department* or any other person in the course of an examination or investigation made pursuant to section 382.220, RSMo, and all information reported pursuant to section 382.100, RSMo. The director in his/her sole discretion may make any record under this paragraph an open record by following the provisions of section 382.230, RSMo;

[7.]9. Real estate malpractice insurance reporting under section 383.069, RSMo. Information reported, compiled or summarized *[pursuant to section 383.060–383.069, RSMo]* relating to real estate malpractice *[[see] is closed under section 383.069, RSMo]];*

[8.]10. Legal malpractice insurance reporting under section 383.083, RSMo. Information reported, compiled or summarized *[pursuant to sections 383.075–383.083, RSMo]* relating to legal malpractice *[[see] is closed under section 383.083, RSMo]];*

[9.]11. Medical malpractice insurance reporting under section 383.115, RSMo. Information submitted pursuant to section 383.105.2(1), (3) and (6), RSMo, relating to medical malpractice, except as provided in section 383.125, RSMo **is closed under 383.115, RSMo**. Statistics in summary form of the information submitted pursuant to sections 383.100–383.125, RSMo, except as otherwise provided in this paragraph shall be *[a matter of public record [see section 383.115, RSMo]] an open record;*

[10. Reports and recommendations of the board of directors of the Missouri Life and Health Insurance Guaranty Association to the director upon any matter germane to the solvency, liquidation, rehabilitation or conservatorship of any

member insurer or germane to the solvency of any company seeking to do insurance business in this state (see section 376.743, RSMo);

11. Records protected from disclosure by section 374.071, RSMo, provided that, the MDI shall:]

12. Insurance consumer complaints under section 374.071, RSMo. Consumer complaint records in their entirety are closed under the open records law, but are subject to disclosure pursuant to subpoena. The department does offer consumers submitting a complaint the option to pre-authorize the release of a copy of the consumer's complaint upon request to any interested person, thereby creating an open record. Pursuant to section 374.071.3, RSMo, the department shall also provide on request the following open records pertaining to consumer complaints:

A. [Release i]Incident reports [upon request,] which summarize the facts and circumstances surrounding [an initial] each consumer report or complaint without identifying the name or identifying characteristics of the consumer unless authorized by the consumer; and

B. Publish complaint data without identifying consumer information, so other consumers are able to make informed decisions in selecting an insurer; [and]

[C. Provide complaining consumers with the option to pre-authorize the MDI to publicly release a copy of the consumer's complaint upon request to any interested person; and]

13. Financial institution and company examination records under section 361.080, RSMo. Examination and investigative work papers and records of bank or trust companies or small loan businesses are confidential;

14. Professional registration investigation records under section 620.111, RSMo. Complaint files, investigation files and investigative reports concerning persons regulated by the Division of Professional Registration or boards or commissions assigned to that division are confidential and therefore closed records. At the discretion of the agency, a record may be released in some circumstances;

15. Accountant investigation reports under section 326.134, RSMo. Complaint files, investigation files and investigative reports concerning accountants are confidential and therefore closed records; and

[12.]16. Any other record expressly protected from disclosure by applicable law of this state or of the federal government; and

(4) Records of the Missouri Property and Casualty Insurance Guaranty Association, Missouri Life and Health Insurance Guaranty Association, Missouri Basic Property Insurance Inspection and Placement Program, and the joint underwriting association formed under section 303.200, RSMo are not public records of the [MDI] director except to the extent that the [MDI] department has physical custody of these records. These records cannot be obtained by making a request to the custodian of records, except to the extent that the [MDI] department has physical custody of these records.

(5) Charges. The [MDI] department and its divisions will follow the provisions of section 610.026, RSMo, in charging fees for providing access and furnishing copies of public records. The [MDI] department or its divisions will furnish a bill for any charges either prior to or concurrently with providing access or furnishing copies. The charges for furnishing copies of records maintained on computer facilities may include charges for programming the computer to furnish the records in the format requested if the [MDI] department or division does not otherwise maintain the records in the format requested.

(6) Format of Records. Copies of open records maintained on computer facilities will be furnished in any format requested which can be produced by the computer. Copies of open records not maintained

on computer facilities will be provided only in the format maintained by the [MDI] department or its divisions.

(8) [Information Received from Persons and Entities Other Than the MDI] Procedure for Trade Secrets under Paragraph (3)(K)2. of this Rule.

(A) Records of others, including duplicates of records of insurance companies and insurance producers in the possession of the [MDI] department will be open records, except as otherwise provided by law or in this rule.

(B) If a person transmits their record to the [MDI] department and wishes to claim that the record is closed or confidential, the [MDI] department will maintain the record as closed, except as otherwise provided in subsection (C) of this section (8). In order to be effective, a claim of a closed record or confidentiality of a record must state in bold or other clearly distinguishable type on the face of the record or on the face of the cover letter accompanying the record, that the record is closed or confidential and the reason the record is asserted to be closed or confidential, e.g., "Confidential—Trade Secret."

(C) Except as otherwise provided by law, the [MDI] department may grant public access to a record claimed to be closed or confidential under subsection (B) of this section (8), but only if on a case-by-case basis the director applies the following procedures and standards:

1. The [MDI] department shall notify in writing the insurer, or other person which provided the record, of the possible public release of such record. The written notice from the [MDI] department shall state—

A. That the insurer or other affected person shall have an opportunity to submit information to demonstrate that such record should still be considered a closed record; and

B. A specific date, not less than ten (10) days from the date of the notice, until which the insurer or other affected person shall have an opportunity to file such information;

2. Upon the filing of information in the form described in paragraph (8)(C)1., the [MDI] department will maintain the insurer's or other affected person's record as a closed record, unless and until such time as the [MDI] department provides the insurer or other affected person with written prior notice to the contrary. Any such prior notice will be provided at least ten (10) days prior to public access being granted to the data and will include a statement substantially as follows: Unless otherwise ordered by a court of competent jurisdiction, the [MDI] department will make your record available to the public on and after the following date: (month, date, and year);

3. The filing of information in the form described in paragraph (8)(C)1.—

A. Shall not create any substantive rights; and

B. May be considered by the [MDI] department as evidence of, but shall create no presumption regarding, confidentiality of the record at issue; and

4. If an insurer or other affected person filing information described in paragraph (8)(C)1. believes such information would itself contain confidential material, the [MDI] department will maintain such information as a closed record if the insurer identifies such information as containing confidential material and simultaneously files a redacted version of such information for public access.

AUTHORITY: section[s] 374.045, RSMo 2000 and 610.028, RSMo Supp. [2004] 2006. This rule previously filed as 4 CSR 190-1.020(2)(B). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 2—[Sunshine Rules (]Public Meetings and
Records[)]**

PROPOSED AMENDMENT

20 CSR 10-2.500 Votes. The director is amending the “Votes” paragraph and numbering “Votes” paragraph as section (1) to this rule and adding a new section (2).

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule.

(1) [Votes.] Department Administration. The provisions of Chapter 621, RSMo, relating to votes do not apply to *[the Missouri Department of Insurance (MDI)] administrative decisions made in the department which relate to the director’s executive powers and duties* because rules, policies and decisions of the *[MDI] department and its divisions* are decided by *[its] the department director or the division directors individually* and a single member body cannot have votes.

(2) Boards and Commissions. The provisions of Chapter 621, RSMo relating to votes apply to decisions of various boards and commissions in the department.

AUTHORITY: section[s] 374.045, RSMo [1986] 2000 and 610.028, RSMo Supp. [1989] 2006. This rule was previously filed as 4 CSR 190-1.020(2)(C). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 3—Internal Affairs**

PROPOSED AMENDMENT

20 CSR 10-3.100 Confidentiality. The director is amending the “Purpose” clause of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule.

PURPOSE: This rule regulates the internal affairs of the *[Department of Insurance] department* regarding confidentiality.

AUTHORITY: section 374.045[.1(1)], RSMo [1986] 2000. Original rule filed Jan. 8, 1992, effective May 14, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 3—Internal Affairs**

PROPOSED AMENDMENT

20 CSR 10-3.200 Gratuities. The director is amending the "Purpose" clause, and sections (1), and (3) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule.

PURPOSE: This rule regulates the internal affairs of the [Department of Insurance] department regarding gratuities.

(1) The employees of the [Missouri Department of Insurance] **department** are prohibited from accepting, directly or indirectly, gifts, trips, travel, meals, gratuities, goods, services or any other thing with benefit or value, or of monetary advantage in compliance with Executive Order 81-2, dated February 10, 1981, and Executive Order 92-04, dated January 31, 1992 (see 20 CSR 10-3.900), which would result in a personal benefit to the employee or have the appearance of improperly influencing the performance of official duties.

(3) All employees of the [Department of Insurance] **department** are subject to the appropriate criminal state and federal statutes related to conflict of interest, bribery and similar offenses. For further clarification, see sections 105.450, 105.452 and 105.454, RSMo.

AUTHORITY: section 374.045[. 1(1)], RSMo [1994] 2000. Original rule filed Jan. 8, 1992, effective May 14, 1992. Amended: Filed Oct. 25, 1996, effective May 30, 1997. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 3—Internal Affairs**

PROPOSED AMENDMENT

20 CSR 10-3.300 Conflict of Interest. The director is amending the "Purpose" clause, sections (1)–(3) of this rule and adding a new section (4).

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule.

PURPOSE: This rule regulates the internal affairs of the [Department of Insurance] department regarding conflict of interest.

(1) All [Department of Insurance] **department** employees are to perform their assigned duties in a manner which precludes any potential for a conflict of interest or the appearance of a conflict of interest. In this regard, [Department of Insurance] **department** employees may not engage in any job-related activity which involves—

(2) **Director, deputy director, division directors, general counsel, department attorneys and director's administrative staff.** In addition, [no person employed by the Department of Insurance in any capacity] the **director, deputy director, division directors, general counsel, department attorneys and any employee in the Resource Administration Division or otherwise among the director's administrative staff shall not—**

(A) Be or become an officer, agent or employee of any **bank or trust company, credit union, insurance company or association, or any other entity regulated by the [Department of Insurance] department, its divisions, or any board, commission or other agency in the department;**

(B) Be or become interested in any **bank or trust company, credit union, insurance company or association, or any other entity regulated by the [Department of Insurance] department, its divisions, or any board, commission or other agency in the department other than as an account or policyholder; or**

(C) Hold an active license issued by the [Department of Insurance] **department, its divisions, or any board, commission or other agency in the department during his/her period of employment, unless the professional license is a requirement of the employee's employment with the department.**

(3) **Insurance Company Regulation Division.** In addition, no person employed in any capacity in the Insurance Company Regulation Division shall—

(A) Be or become an officer, agent or employee of any **bank or trust company, credit union, insurance company or association, or any other entity regulated by the Insurance Company Regulation Division;**

(B) Be or become interested in any **bank or trust company, credit union, insurance company or association, or any entity regulated by the department or any of its divisions, other than as a policyholder or account holder; or**

(C) Hold an active insurance license issued by the department during his/her period of employment.

(4) **Insurance Market Regulation Division.** In addition, no person employed in any capacity in the Insurance Market Regulation Division shall—

(A) Be or become an officer, agent or employee of any **bank or trust company, credit union, insurance company or association, or any entity regulated by the Insurance Market Regulation Division;**

(B) Be or become interested in any **insurance company, or any other entity regulated by the department or any of its divisions, other than as a policyholder or account holder; or**

(C) Hold an active insurance license issued by the department during his/her period of employment.

(5) Consumer Affairs Division. In addition, no person employed in any capacity in the Consumer Affairs Division shall—

(A) Be or become an officer, agent or employee of any insurance company, or association, or any other entity regulated by the Consumer Affairs Division;

(B) Be or become interested in any insurance company, bank or trust company or any other entity regulated by the department or any of its divisions, other than as a policyholder or account holder; or

(C) Hold an active insurance license issued by the department during his/her period of employment.

(6) Division of Finance. In addition, no person employed in any capacity in the Division of Finance shall—

(A) Be or become an officer, agent or employee of any bank or trust company, bank holding company, insurance company, or association, or any other entity regulated by the Division of Finance; or

(B) Be or become interested in any insurance company, bank or trust company or any other entity regulated by the department or any of its divisions, other than as a policyholder or account holder.

[[3]](7) All [Department of Insurance] department employees, at the time of appointment and annually after that during the month of July, shall sign a disclosure statement which requires them to notify their supervisor if any of the following statements apply:

(A) The employee has been previously employed by an insurance company or any other entity subject to regulation by the [Department of Insurance] department;

(B) The employee has a relative, within the second degree, by blood, marriage or adoption, who is employed by or has an interest in any company or any other entity subject to regulation by the [Department of Insurance] department;

(C) The employee or the relative has or had personal or financial interest in any company or any other entity subject to regulations by the [Department of Insurance] department; or

(D) The employee has a close friendship or association with an employee serving in a policy-making capacity with any company or other entity subject to regulation by the [Department of Insurance] department.

AUTHORITY: section 374.045[. 1(1)], RSMo [1986] 2000. Original rule filed Jan. 8, 1992, effective May 14, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 3—Internal Affairs**

PROPOSED AMENDMENT

20 CSR 10-3.900 Supplementary Executive Orders. The director is amending the “Purpose” clause to this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule.

PURPOSE: This rule regulates the internal affairs of the [Department of Insurance] department by referencing appropriate executive orders.

AUTHORITY: section 374.045, RSMo [1986] 2000. Original rule filed March 3, 1992, effective Aug. 6, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 4—Disaster Response Plan**

PROPOSED AMENDMENT

20 CSR 10-4.100 Disaster Planning Standing Committee. The director is amending the “Purpose” clause and section (1) to this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule.

PURPOSE: In the event of a natural or other disaster which would require an extraordinary response by the [Department of Insurance] department, Missouri has adopted the following plan in advance to respond quickly and effectively to meet the needs of its insured citizens. Activation of the plan should be implemented at the call of the director or his/her designee. This rule regulates the internal affairs of and prescribes procedures to be followed in proceedings before the department.

(1) The [ten (10)] members of the disaster plan standing committee are—

(A) Three (3) from the [Department of Insurance] department, who are—

1. Director of [the Division of] the Consumer Affairs Division, Chair;
2. Manager of the [C]consumer [S]services [Division] section of the Consumer Affairs Division; and
3. Chief market conduct examiner;

AUTHORITY: section [375.141, RSMo Supp. 1991] 374.045, RSMo 2000. Original rule filed Jan. 15, 1992, effective Sept 6, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 4—Disaster Response Plan**

PROPOSED AMENDMENT

20 CSR 10-4.200 Command Post Task Group. The director is amending the “Purpose” clause, sections (1), and (2) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule.

PURPOSE: In the event of a natural or other disaster which would require an extraordinary response by the [Department of Insurance] department, Missouri has adopted the following plan in

advance to respond quickly and effectively to meet the needs of its insured citizens. Activation of the plan should be implemented at the call of the director or his/her designee. This rule regulates the internal affairs of and prescribes procedures to be followed in proceedings before the department.

(1) The [three (3)] **four (4)** members of the Command Post Task Group are—[D]director of the [Department of Insurance] department or his/her designee, Missouri Insurance Information Service; [and Department of Insurance, Division of] **director of the Consumer Affairs Division, and the department [P]public [I]information [O]officer.**

(2) The following are procedures for establishing a command post with field office, or series of offices, to efficiently and effectively handle any disaster response. Uppermost in the design of the network will be the attempt to integrate communication among consumers in the affected area, [Department of Insurance] department personnel and the insurance industry. To this end, the network established will serve solely as a conduit for the transfer of necessary information and not function to supervise claim handling or other disaster-related activities.

(A) Command Post.

1. Purpose—to quickly establish a command post and necessary numbers and locations of field offices following the occurrence of a disaster. The command post should immediately function to transfer useful information to consumers in the affected area, while assisting the insurance industry in promptly assessing the size and extent of the damage.

2. Location. The command post will be located at the [Department of Insurance, Division of] Consumer Affairs Division, 301 West High Street, [Suite 830] **Room 530**, Jefferson City, MO 65101, telephone [(314)] **(573) 751-2640.**

3. Composition. The command post and all field offices will have the same composition to insure consistency in the information and services provided. The difference between the command post and the field offices in this regard is that the individuals in the command post will have greater responsibility in managing the flow of information. Thus, those in the command post will be, in most instances, from the highest levels of the department and from the top of the industry’s coordinating team. Where possible, the department’s representative will either be the director or his/her designee. Every effort will be made to assure that the appointed staff person will have some media experience.

4. Duties. One of the principal responsibilities of the command post will be to operate as the main communication conduit between the governor’s office, the state emergency agencies, federal disaster groups such as the Federal Emergency Management Agency (FEMA), etc., the general public and the insurance industry. To perform in this capacity, those responsible for establishing the command post will need to develop several functions well before a disaster ever occurs. A contact list of the state agency people, members of the media and insurance industry personnel should be put together so those in charge can quickly begin assessing the problems and respond to them. Additionally, establishment of a speaker’s bureau to address the need to quickly get insurance claims information to those in the affected area will need to be undertaken. To facilitate these items and the other matters that need to be considered, such as the procedures for handling different types of catastrophic events, a command post group should be appointed immediately for a predetermined period of time in that way the substantive pieces can be put together. Following just a few meetings, the participants will know that their commitment is not forever.

(B) Communications Network.

1. Purpose—to establish a communications network that will link consumers with insurance companies and the [Department of Insurance] department whenever a catastrophic event occurs. An action plan for accomplishing this objective will be developed to

coordinate the communication between all of these points. The plan will take into account the need to integrate with the insurance department's consumer hotline and all existing insurance industry eight hundred (800) numbers.

2. The Command Post Task Group will be charged with the responsibility for creating a contact list for quickly contacting people within the insurance industry, preferably individuals with the national trades and the state domestic trade so a large audience can be reached with just a few calls. Additionally, a contact person with two (2) or three (3) of the major property writers within the state should be part of the list as well. The list should also have a contact person with both the Media Relations Task Group and the Consumer Information Hotline Task Group. Individuals with key state agencies should also be added. Another responsibility of the Command Post Task Group will be to develop a speaker's bureau to quickly operate in the affected areas to answer questions at town meetings and other informational gatherings. The speaker's bureau would act to supplement information provided through the media and other sources on how to quickly and effectively prepare insurance claims information. In order to facilitate the communication net, the command post will need to prepare an action plan for installation of phones at both the command post as well as all of the field offices. This should probably be undertaken in concert with the people from the State Emergency Response Agency so not only a coordinated approach is taken, but an opportunity is created for using that agency's phones in the early hours of any disaster.

AUTHORITY: section [375.141, RSMo Supp. 1991] 374.045, RSMo 2000. Original rule filed Jan. 15, 1992, effective Sept. 6, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 4—Disaster Response Plan**

PROPOSED AMENDMENT

20 CSR 10-4.300 Consumer Information Hotline Task Group. The director is amending the "Purpose" clause, and sections (1) and (2) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule.

PURPOSE: In the event of a natural or other disaster which would require an extraordinary response by the [Department of Insurance] department, Missouri has adopted the following plan in advance to respond quickly and effectively to meet the needs of its insured citizens. Activation of the plan should be implemented at the call of the director or his/her designee. This rule regulates the internal affairs of and prescribes procedures to be followed in proceedings before the department.

(1) The three (3) members of the Consumer Information Hotline Task Group are—Director of the [Division of] Consumer Affairs **Division**, [Department of Insurance]; Missouri Insurance Information Services; and Independent Insurance Agents of Missouri.

(2) The following are procedures to establish a consumer hotline in the event of a disaster in this state. The hotline will provide general information on insurance and will put the consumer in touch with his/her insurance company. Consumers should be encouraged to first contact their insurance company or agent:

(A) Hotline.

1. Purpose—first, to provide consumers with information needed to get in touch with their insurance companies and the requisites to file a claim; and second, to convey necessary information to the command post and field office(s).

2. Location. The central hotline is located in the offices of the [Department of Insurance, Division of] Consumer Affairs **Division**. The central hotline should be capable of channeling calls to and from the field office(s).

3. Composition. If a disaster is declared, the hotline should be immediately activated. The hotline should become a twenty-four (24)-hour service utilizing four (4) six (6)-hour shifts. A member of the existing hotline staff would supervise each shift. Companies should also be asked to provide individuals to staff the hotline. These individuals should be on an immediate call-up basis twenty-four (24) hours a day. Field offices might initially be made operational through the use of standby cellular telephones until wired phone links are dropped and established.

4. Communications. The hotline staff should have a list of [eight hundred (800)] toll-free numbers of the major property/casualty insurers in the state as well as the list of command post field offices and other emergency agency telephone numbers to be used in the event of a disaster. A communication telephone tree should be established to notify hotline workers what shifts they will be staffing after a disaster has been declared by the [Department of Insurance] department. Hotline staff will also be provided with a communications kit which will be used to inform consumers about the claim procedures.

AUTHORITY: section [375.141, RSMo Supp. 1991] 374.045, RSMo 2000. Original rule filed Jan. 15, 1992, effective Sept. 6, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 4—Disaster Response Plan**

PROPOSED AMENDMENT

20 CSR 10-4.400 Media Relations Task Group. The director is amending the “Purpose” clause and sections (1), (4), and (6) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule.

PURPOSE: In the event of a natural or other disaster which would require an extraordinary response by the [Department of Insurance] department, Missouri has adopted the following plan in advance to respond quickly and effectively to meet the needs of its insured citizens. Activation of the plan should be implemented at the call of the director or his/her designee. This rule regulates the internal affairs of and prescribes procedures to be followed in proceedings before the department.

(1) The [four (4)] **five (5)** members of the Media Relations Task Group are—[D]director of the [Division of] Consumer Affairs **Division**, [Department of Insurance] Chair; **the department’s public information officer**; Independent Insurance Agents of Missouri; Missouri Insurance Information Services; and National Association of Insurance Commissioners (NAIC), NAIC State Media Relations Manager (advisory member).

(4) The Media Task Group should send a Media Advisory to news organizations throughout the state. This advisory notifies news agencies that the [Department of Insurance] department will become the primary source for obtaining and forwarding information relative to insurance and a disaster.

(6) Representatives of trade groups, as well as media [specialities] **specialties** employed by member insurance companies, should augment forces as needed. A list of the pool available should be compiled and continually updated with any disaster response manual.

AUTHORITY: section [375.141, RSMo Supp. 1991] 374.045, RSMo 2000. Original rule filed Jan. 15, 1992, effective Sept. 6, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

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

**Division 10—General Administration
Chapter 4—Disaster Response Plan**

PROPOSED AMENDMENT

20 CSR 10-4.500 National Response Task Group. The director is amending the “Purpose” clause, and sections (1) and (2) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name “Department of Insurance, Financial Institutions and Professional Registration” will be abridged to “the department” for use in this rule.

PURPOSE: In the event of a natural or other disaster which would require an extraordinary response by the [Department of Insurance] department, Missouri has adopted the following plan in advance to respond quickly and effectively to meet the needs of its insured citizens. Activation of the plan should be implemented at the call of the director or his/her designee. This rule regulates the internal affairs of and prescribes procedures to be followed in proceedings before the department.

(1) The five (5) members of the National Response Task Group are—[D]director of the [Department of Insurance] department or his/her designee; Director of the [Division of] Consumer Affairs **Division**, [Department of Insurance]; **the department’s public information officer**; a foreign property and casualty insurer authorized to do **business** and transacting insurance business in Missouri; **and** Independent Insurance Agents of Missouri; **and Public Information Officer, Division of Consumer Affairs, Department of Insurance**].

(2) In the event of a disaster within or outside this state which would be of national concern (whether single or multistate disaster), the [Department of Insurance] department establishes this National Response Task Group to monitor, coordinate and respond with other state and national leaders as the situation demands. To this end, the National Association of Insurance Commissioners (NAIC) has established a National Disaster Response Plan which should be consulted in advance and upon the occurrence of a national disaster. The

National Disaster Response Plan as established by the NAIC is designed to provide an organized process of response and multi-state/federal communication and therefore address expectations in the event of a loss of temporary communications.

AUTHORITY: section [375.141, RSMo Supp. 1991] 374.045, RSMo 2000. Original rule filed Jan. 15, 1992, effective Sept. 6, 1992. Amended: Filed Oct. 15, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on December 18, 2007 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 amendment, until 5:00 p.m. on December 18, 2007. Written statements shall be sent to Tamara 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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 1—Organization and Description of Commission**

PROPOSED AMENDMENT

20 CSR 2250-1.010 General Organization. The board is proposing to amend sections (1), (2), and (5) and to delete the Editors Note.

PURPOSE: The purpose of this proposed amendment is to correct the department name and commission contact numbers.

[Editors Note: The complaint form in this rule may be found following 4 CSR 250-9.010.]

(1) The Missouri Real Estate Commission, an agency of the Division of Professional Registration of the Department of [Economic Development] Insurance, Financial Institutions and Professional Registration created by Chapter 339, RSMo is responsible for the examination, licensing and regulation of persons and firms who engage in real estate business in this state as a vocation.

(2) The commission consists of seven (7) members who, except one (1) voting public member, must have had at least ten (10) years experience as a real estate broker. The members are appointed by the governor with the advice and consent of the [s/Senate]. Each member is appointed to a term of five (5) years. One (1) of the members acts as chairman and one (1) of the members acts as vice chairman.

(5) Requests for general information, applications, complaint forms or copies of statutes and rules may be directed to the Missouri Real Estate Commission, 3605 Missouri Boulevard, P[.]/O[.] Box 1339,

Jefferson City, MO 65102, telephone [(314)] (573) 751-2628, FAX number [(314)] (573) 751-2777.

AUTHORITY: section 339.120, RSMo Supp. [1993] 2006. This rule originally filed as 4 CSR 250-1.010. Original rule filed Aug. 16, 1976, effective Nov. 11, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 3—Applications for License; License
Examinations**

PROPOSED AMENDMENT

20 CSR 2250-3.010 Applications for License. The board is proposing to amend paragraph (3)(A)1., delete paragraphs (4)(A)1. and (4)(A)2., and add paragraphs (4)(A)1., 2., and 3.

PURPOSE: The purpose of this proposed amendment is to correct the text to coincide with the recent changes to section 339.040.5, RSMo.

(3) Salesperson.

(A) Every application for original salesperson license shall be accompanied by proof acceptable to the commission that the applicant has met all applicable requirements of sections 339.010 through 339.190, RSMo and these rules, including but not limited to:

1. Proof of successful completion of an approved forty-eight (48)-hour course of study known as "Salesperson Pre-Examination Course" prior to the date of examination and no more than six (6) months prior to the [postmark date applied by the postal service or hand delivery date of license application to the Missouri Real Estate Commission] receipt date as affixed by the United States Postal Service or recognized common carrier or, the date the application is hand delivered to the Missouri Real Estate Commission during regular business hours;

2. Proof of satisfactory completion of both national and state portions of the required examination after the successful completion of the course identified as "Salesperson Pre-Examination Course"; and

3. Proof of successful completion of an approved twenty-four (24)-hour course known as "Missouri Real Estate Practice Course" completed after successful completion of the "Salesperson Pre-Examination Course."

(4) Broker Type License.

(A) Every application for original broker type license shall be accompanied by proof acceptable to the commission that the applicant has met all applicable requirements of the license law and these rules, including but not limited to:

[1. Proof of having been actively licensed as a salesperson for at least one (1) year immediately preceding date of application, and proof of satisfactory completion of both national and state portions of the required broker examination no more than six (6) months prior to the postmark date applied by the postal service or hand delivery date of license application to the Missouri Real Estate Commission after having completed the "Broker Pre-Examination Course"; or

2. Proof of having completed all requirements to obtain a Missouri salesperson's license, proof of successful completion of an approved forty-eight (48)-hour course of study known as the "Broker Pre-Examination Course" prior to the date of examination and no more than six (6) months prior to the postmark date applied by the postal service or hand delivery date of license application to the Missouri Real Estate Commission, and proof of satisfactory completion of both national and state portions of the required examination after the successful completion of the course identified as "Broker Pre-Examination Course."]

1. Evidence of having been an actively licensed Missouri salesperson, or holding an active real estate license in another state or jurisdiction, for no less than twenty-four (24) of the last thirty (30) months immediately preceding the date of application for license;

2. Proof of successful completion of an approved forty-eight (48)-hour course of study known as the "Broker Pre-Examination Course" no more than six (6) months prior to the receipt date as affixed by the United States Postal Service or recognized common carrier or, the date the application is hand delivered to the Missouri Real Estate Commission during regular business hours; and

3. Proof of satisfactory completion of both portions of the required examination after having completed the "Broker Pre-Examination Course."

AUTHORITY: sections 339.090 and 339.120, RSMo Supp. [2005] 2006. This rule originally filed as 4 CSR 250-3.010. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 4—Licenses**

PROPOSED AMENDMENT

20 CSR 2250-4.020 Expiration and Renewal; Name and Address Changes. The board is proposing to delete section (1), add a new section (1) and amend section (2).

PURPOSE: This proposed amendment corrects Chapter 4 to coincide with recent changes to Chapters 6, 7 and 10 of the commission's rules and regulations and section 339.040.5, RSMo. Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, section (1) is being amended.

[(1) Every license issued and every license renewal for broker, corporation, broker-officer, partnership, broker-partner, association, broker-associate, broker-salesperson, professional corporation (broker-salesperson) and inactive broker licenses shall expire June 30 in every even-numbered year. Professional corporation (salesperson), salesperson and inactive salesperson licenses shall expire September 30 in every even-numbered year. The commission may mail to each licensee, at least thirty (30) days prior to license expiration, a notice of the expiration and an application for renewal of license to the licensee's address on file with the commission. The commission may issue a new license for each renewal period upon receipt of a properly completed renewal application, including proof of completion of the continuing education requirement pursuant to 4 CSR 250-10.010, and the biennial fee postmarked by a postal service before midnight of the date of expiration. Delinquent renewal applications must be accompanied by a delinquent fee of fifty dollars (\$50) per month or partial month elapsed since date of expiration, not to exceed a two hundred dollar (\$200) maximum delinquent fee. Any licensee who fails to complete continuing education requirements, in addition to paying delinquent fees as set out previously, must attend the prescribed prelicense course. A delinquent renewal application, accompanied by the required fees and proof of satisfactory completion of the prescribed course, must be postmarked by a postal service within six (6) months of course completion.]

(1) Renewal of License.

(A) Every license issued and every license renewal for a broker, corporation, broker-officer, partnership, broker-partner, association, broker-associate, broker-salesperson, professional corporation (broker-salesperson) or inactive broker license shall expire June 30 in each even-numbered year.

(B) Every license issued and every license renewal for professional corporation (salesperson), salesperson or inactive salesperson license shall expire September 30 in each even-numbered year.

(C) The commission may mail to each licensee, at least thirty (30) days prior to license expiration, a notice of the expiration and an application for renewal of license to the licensee's address on file with the commission.

(D) The commission may issue a new license for each renewal period upon receipt of a properly completed renewal application, including proof of completion of the continuing education requirement pursuant to 20 CSR 2250-10.100, and the biennial fee, if the receipt date as affixed by the United States Postal Service or recognized common carrier or, if hand delivered to the Missouri Real Estate Commission before the close of business, is no later than the date of license expiration.

(E) Delinquent renewal applications must be accompanied by a delinquent fee of fifty dollars (\$50) per month or partial month elapsed since the date of license expiration. Delinquent fees are not to exceed two hundred dollars (\$200).

(F) Any licensee who fails to complete continuing education requirements during the renewal period must submit with their renewal, proof of completion of the prescribed pre-examination course pertinent to their license type. This pre-examination

course must have been completed no more than six (6) months prior to the receipt date as affixed by the United States Postal Service or recognized common carrier or, the date the application is hand delivered to the Missouri Real Estate Commission during regular business hours.

(2) Failure of a licensee to receive the notice and application to renew from the commission shall not excuse the licensee from the requirements for renewal contained in this rule. Any licensee who fails to renew during a subsequent renewal period is no longer licensed and in order to become licensed again will be required to *[complete the prelicense course, requalify by examination and apply]* requalify as if an original applicant. Until a new license is procured, the holder of an expired license shall not perform any act for which a license is required.

AUTHORITY: section 339.120, RSMo [2000] Supp. 2006. This rule originally filed as 4 CSR 250-4.020. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 4—Licenses**

PROPOSED AMENDMENT

20 CSR 2250-4.040 Individual License; Business Name; Inactive Brokers. The board is proposing to amend sections (1)–(3).

PURPOSE: This proposed amendment corrects Chapter 4 to coincide with recent changes to Chapters 6, 7 and 10 of the commission's rules and regulations, and section 339.040.5, RSMo. Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, sections (1)–(3) are being amended.

(1) A broker shall not conduct business under any other name or at any other address than the one for which the broker's individual license is issued unless the broker first complies with *[4 CSR 250-4.030]* **20 CSR 2250-4.030**. If a broker changes his/her name, home or business address, the broker shall notify the commission in writing within ten (10) days after the change becomes effective.

(2) When a broker returns his/her license to the commission, the broker must first comply with the provisions of *[4 CSR 250-8.155]* **20 CSR 2250-8.155**. The broker shall have six (6) months in which to change status or reinstate the license. If the application to change status or reinstate the license is not made within the six (6)-month period, the applicant will be required to complete the required *[pre-license]* **pre-examination** course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not reinstated or placed on inactive status within the subsequent renewal period, the licensee will be required to *[complete the prelicense course, requalify by examination and apply]* **requalify** as if an original applicant.

(3) A broker may apply for inactive broker status. This request shall be on an application approved by the commission and shall be accompanied by the required fee. A license shall be issued to the broker clearly printed with the word inactive and the inactive broker shall not engage in any activity for which a license is required. An inactive broker license must be renewed biennially on or before June 30 of each renewal year. A licensee holding an inactive license as described in this rule will not be required to complete the continuing education requirement for license periods during which the license is inactive. A broker license which is inactive may not be reactivated until the licensee presents to the commission the proper application accompanied by the required fee and a certificate from a school accredited by the commission evidencing satisfactory completion, within the preceding six (6) months, of the broker course of study required by *[4 CSR 250-6.020]* **20 CSR 2250-6.060**.

AUTHORITY: section 339.120, RSMo Supp. [1993] 2006. This rule originally filed as 4 CSR 250-4.040. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 4—Licenses**

PROPOSED AMENDMENT

20 CSR 2250-4.050 Broker-Salesperson and Salesperson Licenses; Transfers; Inactive Salespersons. The board is proposing to amend sections (1), (3), (4), (6), and (7).

PURPOSE: This proposed amendment corrects Chapter 4 to coincide with recent changes to Chapters 6, 7 and 10 of the commission's rules and regulations, and section 339.040.5, RSMo. Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and

Professional Registration, Title 20. Therefore, sections (1), (6), and (7) are being amended.

(1) A broker whose license is in good standing and who elects to operate under the supervision of a licensed broker shall first comply with the provisions of [4 CSR 250-8.155] **20 CSR 2250-8.155**. The broker shall surrender his/her license to the commission for conversion to a broker-salesperson license. A broker-salesperson license will be issued upon receipt of the properly completed application accompanied by the required fee. No individual holding a broker-salesperson license may have a salesperson license under him/her. A broker license may be reinstated upon proper application to the commission accompanied by the required fee.

(3) Within seventy-two (72) hours of the termination of the association of any broker-salesperson or salesperson, a broker shall notify the commission and shall return to the commission that licensee's license. The broker shall provide a dated and timed receipt to the licensee when the licensee submits a letter of termination to the broker. When a licensee's license is surrendered to the commission, the licensee shall have six (6) months in which to transfer to another broker or change license status. If the application for transfer or change in status is not made within the six (6)-month period, the applicant will be required to complete the required [prelicense] **pre-examination** course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not transferred or placed on inactive status, or if no status change has been made within the subsequent renewal period, the licensee will be required to [complete the prelicense course, requalify by examination and apply] **requalify** as if an original applicant.

(4) An original licensee or a licensee changing license status/type shall not be deemed to be entitled to engage in any activity for which a license is required until the new license is received by the broker or until written notification is received from the commission that the application is being processed. When a broker-salesperson or salesperson transfers from one broker to another without changing license type, the licensee shall be deemed transferred at the time the properly completed application is [postmarked] **mailed by certified, registered or overnight delivery**, if all materials required to transfer are mailed under one (1) cover. The new broker is responsible for seeing that the application is complete and that the application for transfer is mailed by certified, registered or overnight delivery to ensure proof of delivery. If the application is deemed incomplete, the transfer will not be effective until the properly completed application is received by the commission.

(6) A salesperson whose association with a broker is terminated may request the commission to transfer the license to an inactive status. The request shall be on an application approved by the commission and shall be accompanied by the required fee. A license shall be issued to the salesperson clearly printed with the word inactive and the inactive salesperson shall not be associated with a broker nor engage in any activity for which a license is required. An inactive salesperson license must be renewed biennially on or before September 30 of each renewal year. A licensee holding an inactive license as described in this rule will not be required to complete the continuing education requirement for license periods during which the license is inactive. A salesperson license which is in an inactive status may not be reactivated until the licensee presents to the commission a certificate from a school accredited by the commission evidencing satisfactory completion by that person, within the preceding six (6) months, of the salesperson course of study required by [4 CSR 250-6.020] **20 CSR 2250-6.060**. The holder of an inactive salesperson license may be transferred to active status upon proper application to the commission accompanied by the required fee and the school completion certificate.

(7) A broker-salesperson whose association with a broker is terminated may request the commission to transfer the license to an inactive status and shall be subject to the provisions of [4 CSR 250-4.040(3)] **20 CSR 2250-4.040(3)**.

AUTHORITY: section 339.120, RSMo Supp. [1997] 2006. This rule originally filed as 4 CSR 250-4.050. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 4—Licenses**

PROPOSED AMENDMENT

20 CSR 2250-4.070 Partnership, Association or Corporation License. The commission is proposing to amend sections (1) and (8).

PURPOSE: This proposed amendment corrects Chapter 4 to coincide with recent changes to Chapters 6, 7 and 10 of the commission's rules and regulations, and section 339.040.5, RSMo. Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, section (1) is being amended.

(1) Every partnership, association or corporation must obtain a separate and distinct real estate broker license before transacting business as a broker pursuant to Chapter 339, RSMo. If the partnership, association or corporation wishes to do business under an assumed or fictitious name, it shall first comply with [4 CSR 250-4.030] **20 CSR 2250-4.030** regarding registration of the name.

(8) When a broker-partner, broker-associate or broker-officer license is returned to the commission, the licensee shall have six (6) months in which to change status or reinstate the license. If the application to change status or reinstate the license is not made within the six (6)-month period, the applicant will be required to complete the required [prelicense] **pre-examination** course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not reinstated or placed on inactive status within the subsequent renewal period, the licensee will be required to complete the [prelicense] **pre-examination** course, requalify by examination and apply as if an original applicant.

AUTHORITY: section 339.120, RSMo [2000] Supp. 2006. This rule originally filed as 4 CSR 250-4.070. Original rule filed Nov. 14,

1978, effective Feb. 11, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 4—Licenses**

PROPOSED RESCISSION

20 CSR 2250-4.080 Nonresident Licenses; Reciprocity; Process Agent. This rule clarified and qualified who may obtain a nonresident license and the condition for its renewal.

PURPOSE: This rule is being rescinded and readopted to make the licensing requirements of all nonresident licenses more uniform.

AUTHORITY: section 339.120, RSMo 2000. This rule originally filed as 4 CSR 250-4.080. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 4—Licenses**

PROPOSED RULE

20 CSR 2250-4.080 Nonresident Licenses; Reciprocity

PURPOSE: This rule clarifies and qualifies who may obtain a nonresident license and the condition for its renewal.

(1) A nonresident person, partnership, association or corporation seeking a license to engage in the real estate business in Missouri shall apply for an appropriate license on a form provided by the commission accompanied by the required fee.

(2) An individual who holds a real estate license in another state or jurisdiction desiring to obtain a real estate license in Missouri, must fulfill the following requirements:

(A) Salesperson Requirements:

1. An individual holding a current and active salesperson license in another state or jurisdiction at the time of application for a Missouri salesperson license must pass the state portion of the Missouri salesperson exam and complete the twenty-four (24)-hour Missouri Real Estate Practice Course. The Missouri Real Estate Practice Course may be taken before or after the exam date, but must be taken prior to applying for licensure. The forty-eight (48)-hour Missouri salesperson pre-examination course shall be waived. Application for licensure must be submitted to the commission within six (6) months of passing the state portion of the Missouri salesperson exam; and

2. A license (history) certification issued from the real estate commission of the state or jurisdiction from where applying must be provided with the application for licensure. The nonresident certification must be issued no more than three (3) months prior to application for a Missouri license.

(B) Broker Requirements:

1. An individual holding a current and active salesperson license in another state or jurisdiction wishing to obtain a Missouri broker's license, must have twenty-four (24) of last thirty (30) months active salesperson experience, complete the Missouri forty-eight (48)-hour broker pre-examination course, pass both portions of the Missouri broker exam and apply for licensure within six (6) months of the forty-eight (48)-hour broker course completion date;

2. An individual holding a current and active broker license in another state or jurisdiction, other than those states and jurisdictions that issue only broker licenses, must have twenty-four (24) of the last thirty (30) months active license experience as a salesperson or broker, pass the state portion of the Missouri broker exam, and apply for licensure within six (6) months of passing the state portion of the Missouri broker exam. The forty-eight (48)-hour broker pre-examination course shall be waived;

3. If licensed in a state or jurisdiction that only issues broker licenses, Missouri will recognize the single license as a salesperson license and applicants must comply with 20 CSR 2250-4.080(2)(B)1.; and

4. A license (history) certification issued from the real estate commission of the state or jurisdiction from where applying must be provided with the application for licensure. The license certification must be issued no more than three (3) months prior to application for a Missouri license.

(3) The commission may issue a nonresident license to a partnership, association or corporation organized and licensed as a real estate broker under the laws of another state or jurisdiction, provided that the applicant furnishes with the application:

(A) A license (history) certification, issued no more than three (3) months prior to the application for the Missouri license, from the nonresident licensing authority that the entity is in good standing; and

(B) Evidence that the applicant has complied with all applicable laws with respect to qualifying to do business in this state.

(4) In addition to the specific requirements set forth in this rule, every applicant for a nonresident license must meet all requirements applicable to Missouri residents and domestic firms applying for the same type of license. After licensure, a nonresident licensee shall be subject to and shall comply with all provisions of the license law and these rules.

(5) The commission may waive the examination prescribed by the license law for a nonresident individual duly licensed in any other state under the laws of which a similar exemption is extended to licensees of Missouri, provided a written agreement for reciprocal licensing exists between the licensing authorities of the states involved.

*AUTHORITY: sections 339.090 and 339.120, RSMo Supp. 2006. This rule originally filed as 4 CSR 250-4.080. Original rule filed Nov. 14, 1978. For intervening history, please consult the **Code of State Regulations**. Rescinded and readopted: Filed Oct. 12, 2007.*

PUBLIC COST: This proposed rule will cost state agencies and political subdivisions approximately three thousand four hundred thirty-nine dollars (\$3,439) annually. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately six thousand two hundred fifty-two dollars (\$6,252) annually. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.*

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER**Title 20-Department of Insurance, Financial Institutions, and Professional Registration****Division 2250-Missouri Real Estate Commission****Chapter 4-Licenses****Proposed Rule - 20 CSR 2250-4.080 Nonresident Licenses; Reciprocity**

Prepared July 12, 2007 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

The two Licensure Technician I's are responsible for processing the applications for reciprocity that come into the office. They spend approximately 5% of their total time processing these applications.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER DAY SPENT ON APPLICATIONS	COST PER DAY	TOTAL COST PER APPLICANT (600 Per Year)	TOTAL COST
(2) Licensure Technician I	\$23,100	\$34,393.59	\$16.54	\$0.28	24 minutes	\$13.23	\$5.73	\$3,439.36
Total Personal Services Cost Annually for the Life of the Rule								\$3,439.36

III. WORKSHEET

Please see above.

IV. ASSUMPTION

1. The figures reported above are based on FY05 and FY06 actuals and FY07 projections.
2. It is anticipated that the total saving will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20-Department of Insurance, Financial Institutions, and Professional Registration

Division 2250-Missouri Real Estate Commission

Chapter 4-Licenses

Proposed Rule - 20 CSR 2250-4.080 Nonresident Licenses; Reciprocity

Prepared July 12, 2007 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the rule by affected entities:
125	Broker (Certification Fee @ \$10)	\$1,250
475	Salesperson (Certification Fee @ \$10)	\$4,750
600	Postage (Postage @ \$0.42)	\$252
Estimated Annual Cost of Compliance for the Life of the Rule		\$6,252

III. WORKSHEET

The division is statutorily obligated to enforce and administer the provisions of sections 339.010-339.860, RSMo. Pursuant to Section 339.060, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 339.010-339.860, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 339.010-339.860, RSMo. The board estimates the projections calculated in the Private Entity Fiscal Notes will be total loss of revenue for the board.

IV. ASSUMPTION

1. Applicants will no longer be required to take a prelicensure course therefore the board anticipates each broker applicant will save approximately \$260.00 and salespersons will save approximately \$410.00
- 2 It is anticipated that the total cost will recur or the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 5—Fees**

PROPOSED AMENDMENT

20 CSR 2250-5.020 Application and License Fees. The board is proposing to amend sections (2) and (3), add section (4) and renumber and amend section (5).

PURPOSE: Pursuant to section 339.060, RSMo, the board shall set the amount of the fees which this chapter authorizes and requires by rule and regulation. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

- (2) The following fees shall be paid for original issuance:
- | | |
|--|------------|
| (A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson | \$ 80[.00] |
| (B) Salesperson | \$ 40[.00] |
| (C) Partnership, Association, Corporation or Professional Corporation | \$ 80[.00] |
| (D) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation | \$150[.00] |
- and
- | | |
|-----------------------------|-------------|
| (E) Nonresident Salesperson | \$100[.00.] |
|-----------------------------|-------------|
- (3) The following fees shall be paid for renewal of licenses:
- | | |
|--|--------------------------|
| (A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson | \$ 50[.00] |
| (B) Salesperson or Inactive Salesperson | \$ 40[.00] |
| (C) Partnership, Association, Corporation or Professional Corporation | \$ 50[.00] |
| (D) Delinquent Fee
(per month or partial month elapsed since date of expiration not to exceed a maximum delinquent fee) | \$ 50[.00]
\$200[.00] |
| (E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation | \$150[.00] |
- and
- | | |
|--|------------|
| (F) Nonresident Salesperson and Inactive Salesperson | \$100[.00] |
|--|------------|
- (4) Effective April 1, 2008, the following fees shall be paid for the 2008 renewal of licenses expiring June 30, 2008 and September 30, 2008:
- | | |
|--|----------------|
| (A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson | \$ 10 |
| (B) Salesperson or Inactive Salesperson | \$ 10 |
| (C) Partnership, Association, Corporation or Professional Corporation | \$ 10 |
| (D) Delinquent Fee
(per month or partial month elapsed since date of expiration not to exceed a maximum delinquent fee) | \$ 50
\$200 |
| (E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation | \$ 10 |
- and
- | | |
|--|-------|
| (F) Nonresident Salesperson and Inactive Salesperson | \$ 10 |
|--|-------|

[(4)](5) The following fees shall be paid for the appropriate transactions:

- | | |
|--|------------|
| (A) Transfer/Status Change | \$ 50[.00] |
| (B) Replacement of a Lost, Destroyed or Stolen License | \$ 25[.00] |
| (C) Certification of Licensure | \$ 10[.00] |
- and
- | | |
|--|-------------|
| (D) Professional Corporation Name Approval Fee | \$ 10[.00.] |
|--|-------------|

AUTHORITY: sections 339.090[*, RSMo Supp. 2001*] and 339.120, RSMo [2000] *Supp. 2006*. This rule originally filed as 4 CSR 250-5.020. Original rule filed Jan. 16, 1979, effective April 12, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 12, 2007.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$2,099,000 biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will save private entities approximately \$2,099,000 biennially for the life of the rule. It is anticipated that the savings will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2250 - Missouri Real Estate Commission
Chapter 5 - Fees
Proposed Amendment - 20 CSR 2250-5.020 - Application and License Fees
Prepared July 11, 2007 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
Missouri Real Estate Commission	\$2,099,000.00	
	Total Loss of Revenue Biennially for the Life of the Rule	\$2,099,000.00

III. WORKSHEET

The division is statutorily obligated to enforce and administer the provisions of sections 339.010-339.860, RSMo. Pursuant to Section 339.060, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 339.010-339.860, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 339.010-339.860, RSMo. The board estimates the projections calculated in the Private Entity Fiscal Notes will be total loss of revenue for the board.

IV. ASSUMPTION

1. The figures reported above are based on FY04 and FY05 actuals and FY06 projections.
2. It is anticipated that the total saving will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER**Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2250 - Missouri Real Estate Commission****Chapter 5 - Fees****Proposed Amendment - 20 CSR 2250-5.020 - Application and License Fees**

Prepared July 11, 2007 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated savings for compliance with the amendment by affected entities:
15,200	Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson (renewal fee - \$40 decrease)	\$608,000
27,100	Salesperson or Inactive Salesperson (renewal fee - \$30 decrease)	\$813,000
3,800	Partnership, Association, Corporation or Professional Corporation (renewal fee - \$40 decrease)	\$152,000
1,700	Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation (renewal fee - \$140 decrease)	\$238,000
3,200	Nonresident Salesperson and Inactive Salesperson (renewal fee - \$90 decrease)	\$288,000
	Estimated Biennial Cost Savings for the Life of the Rule	\$2,099,000

III. WORKSHEET

The division is statutorily obligated to enforce and administer the provisions of sections 339.010-339.860, RSMo. Pursuant to Section 339.060, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 339.010-339.860, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 339.010-339.860, RSMo. The board estimates the projections calculated in the Private Entity Fiscal Notes will be total loss of revenue for the board.

IV. ASSUMPTION

1. The figures reported above are based on FY05 and FY06 actuals and FY07 projections.
2. It is anticipated that the total saving will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 7—Schools**

PROPOSED AMENDMENT

20 CSR 2250-7.010 Standards for Real Estate School Accreditation and Renewal. The board is proposing to amend subsection (1)(F) and paragraph(1)(M)7.

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 250 are being amended throughout the rule. Additionally, the commission is deleting the rule reference in paragraph (1)(M)7.

(1) A school wishing to offer a Salesperson Pre-Examination Course, a Broker Pre-Examination Course, a Missouri Real Estate Practice Course and/or continuing education course(s) in Missouri will be accredited by the commission upon compliance with the following requirements:

(F) The Salesperson Pre-Examination Course, Broker Pre-Examination Course, and Missouri Real Estate Practice Course offered shall include the subjects set forth in [4 CSR 250-6.060] **20 CSR 2250-6.060**;

(M) Physical facilities used to teach any approved classroom course shall:

1. Be designed primarily for classroom purposes or designed for multipurpose use in the case of meeting halls and convention facilities;
2. Contain proper seating and writing surfaces;
3. Be properly lighted;
4. Be properly ventilated;
5. Be reasonably free from distracting pedestrian traffic;
6. Be reasonably free of sound and light disturbances; and
7. Not contain recruiting material and be free of reference to individual real estate firms, groups of firms or franchises, unless the course is restricted to only licensees of the referenced firm or franchise and the notice submitted by the school to the commission [as required under 4 CSR 250-7.040] is clearly marked as a restricted class.

AUTHORITY: sections 339.045, RSMo 2000 and 339.090 and 339.120, RSMo Supp. [2005] 2006. This rule originally filed as 4 CSR 250-7.010. Original rule filed Feb. 7, 1979, effective May 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 7—Schools**

PROPOSED AMENDMENT

20 CSR 2250-7.080 Additional Requirements for Approved Schools Offering Distance Delivered Courses. The board is proposing to amend sections (2) and (3).

PURPOSE: This proposed amendment corrects grammatical errors.

(2) For each continuing education course, a complete outline **must also be provided to the commission** showing all subjects covered in the course and no fewer than three (3) unique learning objectives per course hour.

(3) [To the student, a] A course introduction statement **must be provided to the student** setting out the dates during which the course is approved by the commission, the terms and conditions under which the final examination will be administered, including review of the completed workbook, and a list of specific learning objectives referenced in the final examination.

AUTHORITY: sections 339.045, RSMo 2000 and 339.090 and 339.120, RSMo Supp. [2005] 2006. This rule originally filed as 4 CSR 250-7.080. Original rule filed April 6, 2006, effective Sept. 30, 2006. Moved to 20 CSR 2250-7.080, effective Aug. 28, 2006. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 7—Schools**

PROPOSED AMENDMENT

20 CSR 2250-7.090 Investigation and Review of Accredited Schools and Approved Courses. The board is proposing to amend section (4).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 250 are being amended throughout the rule.

(4) The commission may deny, suspend, revoke or place on probation the accreditation of any school if it is determined that the school, administrator, staff, instructor(s) or any person associated in any way have violated any of the requirements of Chapter 7 of these regulations or have performed or attempted to perform any acts identified in [4 CSR 250-7.060(5)] **20 CSR 2250-7.090(5)**.

AUTHORITY: sections 339.045, RSMo 2000 and 339.090 and 339.120, RSMo Supp. [2005] 2006. This rule originally filed as 4 CSR 250-7.090. Original rule filed April 6, 2006, effective Sept. 30, 2006. Moved to 20 CSR 2250-7.090, effective Aug. 28, 2006. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 8—Business Conduct and Practice**

PROPOSED AMENDMENT

20 CSR 2250-8.070 Advertising. The board is proposing to delete section (1), renumber the remaining sections accordingly, and amend the new section (1).

PURPOSE: The purpose of this amendment is to delete section (1) as it contradicts section 339.010.5, RSMo. Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 250 are being amended throughout the rule.

[1] For the purpose of these rules, advertising shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one (1) or more licensees and the public; it shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, display or group ads in telephone directories and billboards.]

[(2)](1) Disclosure.

(A) A licensee shall not advertise to sell, buy, exchange, rent, lease or manage property in any manner indicating that the offer to sell, buy, exchange, rent, lease or manage the property is being made by a private party not engaged in the real estate business. If any part of the offering, negotiation or completion of a real estate transaction is to be handled by, through or under the direction or supervision of a licensee, directly or indirectly, the licensee shall not advertise or represent to the public in any manner that the property is for sale or lease by the owner.

(B) If a licensee advertises to sell, buy, exchange, rent, lease or manage property in which the licensee has an interest, and if the property is not listed by a brokerage entity, the advertisement shall contain, in a prominent fashion, one (1) of the following:

1. By owner-broker;
2. By owner-salesperson; or
3. By owner-agent.

(C) Nothing in this section shall be construed to eliminate the disclosure requirements found elsewhere in these rules, including those contained in [4 CSR 250-8.110] **20 CSR 2250-8.110**.

[(3)](2) No real estate advertisement by a licensee shall show only a post office box number, telephone number or street address. Every advertisement of real estate by a licensee shall contain the broker's regular business name or the name under which the broker or the broker's firm is licensed and shall indicate that the party advertising is a real estate broker and not a private party.

[(4)](3) Every advertisement of real estate by a licensee where the licensee has no interest in the real estate shall be made under the direct supervision and in the name of the broker or firm who holds the licensee's license. If the licensee's name or telephone number, or both, is used in any advertisement, the advertisement also shall include the name and telephone number of the broker or firm who holds the licensee's license.

[(5)](4) No licensee shall advertise to buy, sell, rent, lease, manage or exchange property in any manner that indicates, directly or indirectly, any unlawful discrimination against any individual or group because of race, color, religion, national origin, ancestry, sex, handicap or familial status.

[(6)](5) Guaranteed Sales.

(A) As used in this rule, the term guaranteed sales plan includes, but is not limited to: i) any plan in which a seller's real estate is guaranteed to be sold, or ii) any plan where a licensee or anyone affiliated with a licensee will purchase a seller's real estate if it is not purchased by a third party in the specified period of a listing or within some other specified period of time.

(B) Any written advertisement by a licensee of a guaranteed sales plan shall include a statement advising the seller that if the seller is eligible, costs and conditions may apply and advising the seller to inquire of the licensee as to the terms of the guaranteed sales agreement. This information shall be set forth in print at least one-fourth (1/4) as large as the largest print in the advertisement.

(C) Any radio or television advertisement by a licensee of a guaranteed sales plan shall include a conspicuous statement advising if any conditions and limitations apply.

(D) Every guaranteed sales agreement must be in writing and contain all of the conditions and other terms under which the property is guaranteed to be sold or purchased, including the charges or other costs for the service or plan, the price for which the property will be sold or purchased and the approximate net proceeds the seller may reasonably expect to receive.

AUTHORITY: sections 339.100[, RSMo 1994] and 339.120, RSMo Supp. [1999] 2006. This rule originally filed as 4 CSR 250-8.070. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

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

**Division 2250—Missouri Real Estate Commission
Chapter 8—Business Conduct and Practice**

PROPOSED AMENDMENT

20 CSR 2250-8.090 Brokerage Service Agreements. The board is proposing to amend sections (1) and (3) and add sections (9) and (10).

PURPOSE: The purpose of this amendment is to move the wording in rule 20 CSR 2250-8.210 to this rule so that the requirements of a management agreement are contained in the same rule as the brokerage service agreements. Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 250 are being amended throughout the rule.

(1) A licensee shall not advertise or place a sign upon any property offering it for sale or lease to prospective customers [unless the broker holds a currently effective written listing agreement or other written authorization signed by all owners] without the written consent of the owner or his or her duly authorized agent.

(3) In a commercial real estate transaction, a brokerage service agreement prepared by legal counsel for the client/customer to be represented or assisted shall not be subject to the provisions of [4 CSR 250-8.090(4)-(7)] **20 CSR 2250-8.090(4)-(7).**

(9) Every written property management agreement or other written authorization between a broker and the owners of the real estate shall:

- (A) Identify the property to be managed;
- (B) State the amount of fee or commission to be paid and when the fee or commission will be paid;
- (C) Specify whether security deposits and prepaid rents will be held by the broker or the owner;
- (D) Contain the beginning date of the agreement;
- (E) Provide the terms and conditions for termination of the property management agreement by the broker or the owner of the property;
- (F) Include the licensee's duties and responsibilities;
- (G) Contain a statement which permits or prohibits the designated broker from offering subagency (not applicable for transaction broker agreements);
- (H) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;
- (I) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;

(J) Include specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by section 339.710 to 339.860, RSMo, including but not limited to tenant's agents and/or transaction brokers;

(K) Contain a statement which confirms that the landlord received the Broker Disclosure Form prescribed by the commission:

1. On or before the signing of the brokerage relationship agreement; or

2. Upon the licensee obtaining any personal or financial information, whichever occurs first; and

(L) Contain the signatures of all the owners and the broker or affiliated licensee as authorized by the broker.

(10) The licensee shall give to the owner or the owner's authorized agent a legible copy of every written property management agreement or other written authorization at the time the signature of the owner is obtained. The licensee's broker shall retain a copy.

AUTHORITY: section 339.730, 339.740, 339.750, 339.755 and 339.820, RSMo 2000 and 339.120 and 339.780, RSMo Supp. 2006. This rule originally filed as 4 CSR 250-8.090. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.

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

**Division 2250—Missouri Real Estate Commission
Chapter 8—Business Conduct and Practice**

PROPOSED RESCISSION

20 CSR 2250-8.210 Management Agreements. This rule required specific terms in management agreements in order to alleviate confusion between the public and licensees. This confusion has been demonstrated by complaints received by the commission and audits on property management accounts performed by the commission. This licensee was required to provide a copy of that agreement to the property owner.

PURPOSE: The purpose of this rescission is to move the wording in this section to 20 CSR 2250-8.090 so that the requirements of the management agreement are contained in the same section as the brokerage service agreements.

AUTHORITY: sections 339.120, 339.720, 339.780 and 339.820, RSMo Supp. 1999. This rule originally filed as 4 CSR 250-8.210. Original rule filed June 14, 1988, effective Feb. 19, 1989. Amended:

Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Jan. 14, 2000, effective July 30, 2000. Moved to 20 CSR 2250-8.210, effective Aug. 28, 2006. Rescinded: Filed Oct. 12, 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 Real Estate Commission, Janet Carder, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777 or via email to realestate@pr.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.*

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

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

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 3—National Guard Member Educational Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Adjutant General under sections 41.160, RSMo 2000 and 173.239, RSMo Supp. 2006, the director amends a rule as follows:

11 CSR 10-3.015 State Sponsored Missouri National Guard Member Educational Assistance Program **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1182-1183). 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Family Support Division, under sections 207.020, RSMo 2000 and 208.040.5, RSMo Supp. 2006, the division amends a rule as follows:

13 CSR 40-2.370 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 2, 2007 (32 MoReg 1033-1034). The amendment is changed at 13 CSR 40-2.370(1)(C) to add that Family Support Division (FSD) shall refer the applicant to the Division of Workforce Development (DWD) or its designee to negotiate an Individual Employment Plan (IEP) with the individual, unless the individual meets an exemption under 13 CSR 40-2.315(2)(C) or an exclusion under 13 CSR 40-2.315(2)(D). This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This amendment sets forth the requirement that all applicants/recipients for the payment of Temporary Assistance shall complete an assessment and may be required to complete an Individual Employment Plan. Family Support Division received one hundred fifty-seven (157) letters commenting on the proposed amendment. One hundred one (101) of the letters were opposed to the rule change and fifty-six (56) were in favor of it. Many of the letters were identical except that they were signed by different people.

The number in parentheses at the end of each comment indicates the number of times that particular comment was made.

COMMENT #1: Requiring an assessment and an Individual Employment Plan (IEP) prior to approval will delay benefits to needy families (94).

RESPONSE: FSD eligibility specialists will give applicants who are required to complete an IEP both verbal and written instructions on requirements. These instructions will include the requirements to participate, time limit of ten (10) days to complete the task, and the DWD location and phone number. If requirements are not satisfied, a second request for information will be sent to the applicant allowing an additional ten (10) days for compliance. When all eligibility requirements are met, including verification of cooperation with completion of the IEP, the Temporary Assistance application will be processed within the allowable thirty (30)-day time limit. Action to reject an application for failure to provide verification of compliance will not be completed until the thirtieth day. This is the same time limit for Temporary Assistance applications currently. Therefore, there is no delay in providing benefits to families.

COMMENT #2: The rule is potentially harmful to people with disabilities (97).

RESPONSE AND EXPLANATION OF CHANGE: The initial assessment, including assessing for a permanent or temporary disability, will continue to be completed by staff at FSD. Applicants who are disabled, permanently or temporarily, will be exempted or excluded from completing an IEP with DWD and will not be referred to them. The application process regarding initial assessment of applicants who must be referred to DWD is unchanged by the amendment. The amendment is changed at 13 CSR 40-2.370(1)(C) to add that Family Support Division shall refer the applicant to the DWD or its designee to negotiate an IEP with the individual, unless the individual meets an exemption under 13 CSR 40-2.315(2)(C) or an exclusion under 13 CSR 40-2.315(2)(D).

COMMENT #3: The "good cause" provision is unclear (92).

RESPONSE: The six (6) "good cause" reasons are specific, yet allow for a variety of circumstances that could prevent an applicant/recipient from developing an IEP with DWD within the first thirty (30) days. The first five (5) good cause reasons are unchanged from the previous rule. IEPs must identify available support services (social services) to help insure that the family will become self-sufficient.

Services include, but are not limited to, child care, medical services, and transportation benefits. Good cause exists when a social service necessary for participation cannot be identified. Good cause reason six (6) allows good cause if DWD is unable to develop the plan for the participant within thirty (30) days. DWD will inform FSD if they are unable to provide services to the applicant within thirty (30) days so that good cause may be granted.

COMMENT #4: IEPs lack protections previously granted in Self-Sufficiency Pacts. Informal review with division director or designee is no longer an option (90).

RESPONSE: An individual may request a review of his or her IEP for any reason. This review is done within the structure of DWD as their staff work with the applicant/recipient to create the plan.

COMMENT #5: The CAP assessment will not be meaningful if it is done just to meet requirements (4).

RESPONSE: DWD has in place a team of qualified staff to create and review IEPs with the applicant and has a formal review procedure. The assessment will be conducted by a Career Assistance Program (CAP) case manager. The assessment will consist of completing a standard assessment form and a discussion of next steps for the applicant/recipient.

COMMENT #6: Working with another agency prior to approval is a barrier to service (3).

RESPONSE: DWD and FSD have been working together since 2003 and have taken steps to minimize the transition of the application process. This two (2)-step process allows the applicant the benefit of the services of DWD in looking for a job or in becoming job ready. FSD will continue to exempt applicants with disabilities from this requirement, and they will not be referred to DWD. In addition, the good cause provision will allow for a timely approval of benefits should circumstances hinder development of the IEP.

COMMENT #7: The rule does not provide for exemptions and exclusions (2).

RESPONSE AND EXPLANATION OF CHANGE: FSD will continue to complete the initial assessment to determine employment and training readiness. If an applicant meets an exemption or exclusion he or she will not be referred to DWD for work activities. The amendment is changed at 13 CSR 40-2.370(1)(C) to add that Family Support Division shall refer the applicant to the DWD or its designee to negotiate an IEP with the individual, unless the individual meets an exemption under 13 CSR 40-2.315(2)(C) or an exclusion under 13 CSR 40-2.315(2)(D).

COMMENT #8: FSD cannot deny approval because of a failure of a person outside the household to cooperate; DWD will be that delay (1).

RESPONSE: Applicants will be granted good cause if DWD cannot meet with them to complete the IEP within thirty (30) days. Processing of the applications will not be delayed.

COMMENT #9: The rule does not provide for tracking people who are denied approval (1).

RESPONSE: Our current rule does not provide tracking for people who are denied benefits for any reasons. However, statistical information regarding application approvals and denials is available currently.

COMMENT #10: The rule does not allow for limited English proficiency and families are not going to receive statements and notifications in their own language (1).

RESPONSE: FSD has access to translation services. This is not a change.

COMMENT #11: For families with transportation and childcare issues, this rule creates new barriers (1).

RESPONSE: Both of these issues are addressed with the good cause provisions.

COMMENT #12: The rule allows for a better probability that individuals will acquire employment and self-sufficiency skills (35).

COMMENT #13: More families will participate with and utilize DWD services (33).

COMMENT #14: DWD will have a better opportunity to provide support services to more families (29).

RESPONSE: These are goals of the amendment.

COMMENT #15: FSD will have a better chance at meeting the federal participation rate (28).

RESPONSE: While this is not the goal of the amendment, the amendment may have a positive impact on the participation rate.

COMMENT #16: Early engagement has a proven track record (25).
COMMENT: DWD will be able to work more quickly with families (20).

RESPONSE: FSD believes that early engagement with DWD will mean that the family will benefit from DWD services, thereby increasing the family's ability to become self-sufficient.

COMMENT #18: A good amount of time will be saved in not having to outreach and re-engage participants (20).

COMMENT #19: Families will be on a better time frame to achieving self-sufficiency (11).

RESPONSE: These are goals of the amendment.

COMMENT #20: FSD and DWD will more quickly identify exemptions and exclusions (10).

RESPONSE: No change is anticipated in how long it takes to identify exemptions and exclusions. These decisions will continue to be made by the eligibility specialist when the applicant applies. Individuals who are exempt or excluded will not be referred to DWD.

COMMENT #21: The new rule contains provisions for disabilities (7).

RESPONSE: The new amendment does not change the way decisions are made regarding disabilities.

COMMENT #22: The proposed rule assures more accountability on the part of the applicant for Temporary Assistance payments.

RESPONSE: The purpose of the rule is to require that all applicants for payment of Temporary Assistance complete an assessment and an individual responsibility plan prior to approval for Temporary Assistance. This change is requested to decrease the amount of time required for individuals to begin working with Division of Workforce Development (DWD). Currently, individuals are not required to complete an individual responsibility plan until after approval for Temporary Assistance payments, and then a letter must be sent to the participant to schedule a meeting with DWD. This process causes a delay of up to several months in services provided by DWD to the participant. The proposed rule amendment assures that applicants are referred to DWD for services much earlier, yet it allows for exceptions to be made if good cause exists.

COMMENT #23: The rule requires a personal accountability on the part of the Temporary Assistance (TA) participant (4).

RESPONSE: This is not a change.

COMMENT #24: There will be a loss of federal money and services if changes are not made (4).

RESPONSE: While this amendment is not proposed to prevent loss of federal money, it may have a positive impact on the participation rate which could affect funding.

COMMENT #25: The new rule will reduce the amount of time a family needs Temporary Assistance (2).

RESPONSE: FSD believes that early engagement with DWD will mean that the family will benefit from DWD services, thereby increasing the family's ability to become self-sufficient.

COMMENT #26: An applicant/recipient can still request informal review by FSD if the person feels that the IEP is inappropriate (2).

RESPONSE: An individual may request a review of his or her IEP for any reason. This review is done within the structure of DWD as their staff work with the applicant/recipient to create the IEP.

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 an Individual Employment Plan

(1) Initial Assessment.

(C) On the basis of the assessment made under subsection (1)(A) with respect to an individual, the 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, unless the person meets an exclusion or exemption under 13 CSR 40-2.315(2)(C) and 13 CSR 40-2.315(2)(D).

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

**Division 2060—State Board of Barber Examiners
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Barber Examiners under sections 328.060.1, RSMo 2000 and 328.075.3 and 610.026, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2060-1.025 Fees is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1324). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

**Division 2085—Board of Cosmetology and Barber
Examiners
Chapter 3—License Fees**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Cosmetology and Barber Examiners under sections 328.060.1, RSMo 2000 and 329.025(4), RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-3.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32

MoReg 1338-1346). 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: No comments were received, however, changes were made by the board.

COMMENT: The board noted during final review of the rule four (4) fees were incorrectly stated in the proposed rule.

RESPONSE AND EXPLANATION OF CHANGE: The board has amended paragraph (1)(C)4., subparagraph (1)(C)4.A., paragraphs (1)(D)5., (2)(C)4., (2)(F)4. and (2)(F)5.

20 CSR 2085-3.010 Fees

(1) The following barber related fees are hereby established by the State Board of Cosmetology and Barber Examiners for those fees, activities or licenses governed by Chapter 328, RSMo.

(C) Barber

- 1. Reciprocity \$100
- 2. Exam Score Endorsement Fee \$100
- 3. Certificate of Registration (first license) \$ 20
- 4. License Renewal \$ 30
 - A. Reinstatement (delinquent) Fee after April 30 not renewable after two (2) years \$ 60
 - B. Military renewal under 328.110.3, RSMo \$ 1

(D) Barber Establishment

- 1. Certificate of Registration/License \$100
- 2. Change of Location
 - A. Full Service Barber Establishment \$100
 - B. Barber Chair/Individual Space Renter \$ 50
- 3. Change of Ownership \$ 50
- 4. Adding a Co-Owner \$ 50
- 5. License Renewal \$ 50
 - A. Penalty Fee after March 30 \$100
- 6. Delinquent Fee (Opening a barber establishment without registering before opening) \$100

(2) The following cosmetology related fees are hereby established by the board for those fees, activities or licenses governed by Chapter 329, RSMo.

(C) Cosmetology Establishments (up to and including three (3) operators)

- 1. Application/License Fee (Full Service & Rental Station) \$100
- 2. Change of Location
 - A. Full Service Cosmetology Establishment \$100
 - B. Rental Station/Independent Contractors \$ 50
- 3. Delinquent Fee (Opening a cosmetology establishment without registering before opening) \$100
- 4. Renewal Fee (Full Service & Rental Station) \$ 50

(F) Operator Fees

- 1. Additional Operator Fee \$ 10
- 2. Reciprocity Fee \$100
- 3. Exam Score Endorsement Fee \$100
- 4. Reinstatement Fee (Includes Late Fee) \$ 60
- 5. Renewal Fee \$ 30

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

**Division 2090—State Board of Cosmetology
Chapter 13—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Cosmetology under sections 329.110 and 329.210, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2090-13.010 Fees is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1347). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2150—State Board of Registration for the
Healing Arts
Chapter 3—Licensing of Physical Therapists and Physical
Therapist Assistants**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Registration for the Healing Arts under sections 334.125, RSMo 2000 and 334.530 and 334.550, RSMo Supp. 2006, the board amends a rule as follows:

**20 CSR 2150-3.010 Applicants for Licensure as Professional
Physical Therapists is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1347). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2150—State Board of Registration for the
Healing Arts
Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Registration for the Healing Arts under sections 345.030, 345.051 and 345.075, RSMo 2000, the board amends a rule as follows:

**20 CSR 2150-4.052 Continuing Education Requirements
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1347–1348). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2150—State Board of Registration for the
Healing Arts
Chapter 6—Licensure of Athletic Trainers**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Registration for the Healing Arts under sections 334.125, RSMo 2000 and 334.702, 334.704, 334.706, 334.708, 334.710 and 334.712, RSMo Supp. 2006, the board amends a rule as follows:

**20 CSR 2150-6.020 Applicants for Licensure as Athletic
Trainers is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1348). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2150—State Board of Registration for the
Healing Arts
Chapter 9—Licensing of Anesthesiologist Assistants**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Registration for the Healing Arts under sections 334.125, RSMo 2000 and 334.406 and 334.414, RSMo Supp. 2006, the board amends a rule as follows:

**20 CSR 2150-9.050 Applicants for Temporary Licensure
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1348–1349). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2255—Missouri Board for Respiratory Care
Chapter 4—Continuing Education Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Respiratory Care under sections 334.840.2 and 334.850, RSMo 2000 and 334.880, RSMo Supp. 2006, the board amends a rule as follows:

**20 CSR 2255-4.010 Continuing Education Requirements
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1349). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.