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December 3, 2007

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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IN THIS ISSUE:

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
November 1, 2007	**December 3, 2007**	December 31, 2007	January 30, 2008
November 15, 2007	**December 17, 2007**	December 31, 2007	January 30, 2008
December 3, 2007	**January 2, 2008**	January 30, 2008	February 29, 2008
December 17, 2007	**January 16, 2008**	January 30, 2008	February 29, 2008
January 2, 2008	**February 1, 2008**	February 29, 2008	March 30, 2008
January 16, 2008	**February 15, 2008**	February 29, 2008	March 30, 2008
February 1, 2008	**March 3, 2008**	March 31, 2008	April 30, 2008
February 15, 2008	**March 17, 2008**	March 31, 2008	April 30, 2008
March 3, 2008	**April 1, 2008**	April 30, 2008	May 30, 2008
March 17, 2008	**April 15, 2008**	April 30, 2008	May 30, 2008
April 1, 2008	**May 1, 2008**	May 31, 2008	June 30, 2008
April 15, 2008	**May 15, 2008**	May 31, 2008	June 30, 2008
May 1, 2008	**June 2, 2008**	June 30, 2008	July 30, 2008
May 15, 2008	**June 16, 2008**	June 30, 2008	July 30, 2008
June 2, 2008	**July 1, 2008**	July 31, 2008	August 30, 2008
June 16, 2008	**July 15, 2008**	July 31, 2008	August 30, 2008
July 1, 2008	**August 1, 2008**	August 31, 2008	September 30, 2008
July 15, 2008	**August 15, 2008**	August 31, 2008	September 30, 2008

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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St. Louis, MO 63108-3478
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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 41—General Tax Provisions

EMERGENCY AMENDMENT

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

PURPOSE: Under the Annual Adjusted Rate of Interest (section 32.065, RSMo), this amendment establishes the 2008 annual adjusted rate of interest to be implemented and applied on taxes remaining unpaid during calendar year 2008.

*EMERGENCY STATEMENT: The director of revenue is mandated to establish not later than October 22 the annual adjusted rate of interest based upon the adjusted prime rate charged by banks during September of that year as set by the Board of Governors of the Federal Reserve rounded to the nearest full percent. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the amendment informs the public of the established rate of interest to be paid on unpaid amounts of taxes for the 2008 calendar year. A proposed amendment, that covers the same material, is published in this issue of the **Missouri Register**. The director has limited the scope of the emergency amendment to the circumstances creating the emergency. The director has followed procedures calculated to assure fairness to all interested persons and parties and has complied with protections extended by the **Missouri** and **United States Constitutions**. Emergency amendment filed October 16, 2007, effective January 1, 2008, expires June 28, 2008.*

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

Calendar Year	Rate of Interest on Unpaid Amounts of Taxes
1995	12%
1996	9%
1997	8%
1998	9%
1999	8%
2000	8%
2001	10%
2002	6%
2003	5%
2004	4%
2005	5%
2006	7%
2007	8%
2008	**8%**

*AUTHORITY: section 32.065, RSMo 2000. Emergency rule filed Oct. 13, 1982, effective Oct. 23, 1982, expired Feb. 19, 1983. Original rule filed Nov. 5, 1982, effective Feb. 11, 1983. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Oct. 16, 2007, effective Jan. 1, 2008, expires June 28, 2008. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 40—Division of Maternal, Child and Family Health
Chapter 10—Forensic Examinations for Sexual Assault

ORDER TERMINATING EMERGENCY RULE

By the authority vested in the Department of Health and Senior Services under section 191.225, RSMo (SS for SCS for HCS for HB 583, 94th General Assembly, First Regular Session (2007)), the department hereby terminates an emergency rule effective November 3, 2007 as follows:

19 CSR 40-10.010 Payments for Sexual Assault Forensic Examinations **is terminated**.

A notice of emergency rulemaking containing the text of the emergency rule was published in the *Missouri Register* on October 15, 2007 (32 MoReg 2030–2034).

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 40—Division of Maternal, Child and Family Health
Chapter 10—Forensic Examinations for Sexual Assault

EMERGENCY RULE

19 CSR 40-10.010 Payments for Sexual Assault Forensic Examinations

PURPOSE: The Department of Health and Senior Services makes payments to appropriate medical providers to cover the charges of the forensic examination of persons who may be a victim of a sexual offense. This rule establishes the criteria by which forensic examination charges are paid.

*EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling governmental interest to provide forensic examinations to victims of sexual assault. An early effective date is required because the emergency rule implements House Bill 583, 94th General Assembly, First Regular Session (2007), which requires the Department of Health and Senior Services to be the payer of first resort for sexual assault forensic examinations. The Missouri Department of Health and Senior Services also finds an immediate danger to public health and welfare, which requires this emergency action. If this emergency rule were not enacted, there would be a significant impact on victims of sexual assault in obtaining appropriate forensic examinations. This in turn will impact the health and welfare of the victims. 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 Missouri Department of Health and Senior Services believes this emergency rule is fair to all interested parties under the circumstances. This emergency rule was filed on October 24, 2007, effective on November 3, 2007, expires on March 13, 2008.*

(1) The victim or the victim's guardian shall consent in writing to the examination.

(2) The medical provider shall not charge the victim for the forensic examination.

(3) All appropriate medical provider charges for the sexual assault forensic examinations shall be submitted to the Missouri Department of Health and Senior Services, Bureau of Genetics and Healthy Childhood, Sexual Assault Forensic Examination Program, 930 Wildwood Drive, PO Box 570, Jefferson City, MO 65102 for payment.

(4) Claims for sexual assault forensic examination charges shall be made on forms provided by the Department of Health and Senior Services. The Sexual Assault Forensic Examination Program Report form is included herein and is also available on the department's website at: http://www.dhss.mo.gov/ApplicationsAndForms/index.html.

(5) For the purposes of billing the Missouri Department of Health and Senior Services under section 191.225, RSMo (SS for SCS for HCS for HB 583, 94th General Assembly, First Regular Session, (2007)), claims shall not include the medical treatment. Medical treatment means the treatment of all injuries and health concerns relating directly from a patient's sexual assault or victimization including, but not limited to the following:

(A) Testing for sexually transmitted diseases (STD) or human immunodeficiency virus (HIV) unless victim is under fourteen (14) years of age;
(B) Treatment/prophylaxis of STD or HIV;
(C) Any antibiotic prophylaxis;
(D) Pregnancy testing;
(E) Emergency contraception;
(F) Tetanus immunization;
(G) Wound care, laceration repair;
(H) Fractures/sprain treatment;
(I) Surgical procedures;
(J) Discharge instruction counseling; and
(K) Outpatient follow-up.

(6) Effective January 1, 2008 all claims for sexual assault forensic examination charges must be submitted to the department within one hundred twenty (120) days from the date of the forensic examination.

(7) The department, at its discretion, may require proof of completion of forensic examinations for auditing purposes.

Missouri Department of Health and Senior Services
Sexual Assault Medical Treatment Checklist

In response to HB 583 passed in the 94th General Assembly, First Regular Session (2007) and signed into law, the Missouri Department of Health and Senior Services was required to develop a medical treatment checklist for medical providers to refer to when caring for a victim of a sexual offense. This checklist is created with the assumption that a comprehensive examination was conducted and thus is not addressed in this checklist. This checklist is only a guide for treatment purposes and it includes, but is not limited to the following:

- ☐ Priority care and private room for patient
- ☐ Respond to patient safety concerns
- ☐ Transfer protocol (MOU/MOA) if needed
- ☐ HIV counseling
- ☐ STD counseling
- ☐ STD testing (microbiologic and serologic)
- ☐ STD treatment/prophylaxis
- ☐ HIV testing (if indicated by CDC)
- ☐ HIV treatment/prophylaxis (if indicated)
- ☐ Other antibiotic prophylaxis (if indicated)
- ☐ Pregnancy testing
- ☐ Emergency contraceptive treatment
- ☐ Tetanus immunization (if indicated)
- ☐ Laceration repair (if indicated)
- ☐ Wound care
- ☐ Fracture/sprain treatment (if necessary)
- ☐ Shower for hygiene after exam complete
- ☐ Clothing for discharge and other comfort supplies as needed
- ☐ Release of information to appropriate agencies (Crime Victims' Compensation, law enforcement, etc.)
- ☐ Discharge instructions and counseling
- ☐ Discharge safety plan as needed
- ☐ Out-patient follow up

Items on this checklist have no bearing on billing, as the Missouri Department of Health and Senior Services will not reimburse claims for medical treatment of a victim of a sexual offense.

Resources:

A National Protocol for Sexual Assault Medical Forensic Examinations (Adults/Adolescents), US Department of Justice, Office of Violence Against Women, September 2004.
http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf

Evaluation and Management of the Sexually Abused Patient, American College of Emergency Physicians, 1999.
http://www.acep.org/NR/rdonlyres/11E6C08D-6EE7-4EE2-8E59-5E8E6E684E43/0/sxa_handbook.pdf

Joint Council on Accreditation of Healthcare Organizations (JCAHO)
Joint Commission Standards PC.3.10
http://www.endabuse.org/programs/display.php3?DocID=266

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
SEXUAL ASSAULT FORENSIC EXAMINATION (SAFE) PROGRAM

- Missouri State Statute 191.225 RSMo requires appropriate medical providers to bill the Department of Health and Senior Services (DHSS) for the forensic examination of sexual assault victims to collect evidence.

- Sexual Assault Forensic Examination Forms for Adult Male, Adult Female and Children will be posted by October 1 to the DHSS website at http://www.dhss.mo.gov/ApplicationsAndForms/index.html. These forms were designed by forensic exam experts to provide guidance for a standardized, quality forensic exam. Use of these exam forms is not mandatory and completed forms should **not** be submitted to DHSS for billing purposes. These forms were approved by the Attorney General's office.

- The Sexual Assault Forensic Examination Program Report is a one-page document that has been created to combine the consent for the exam, the release of information and the notification to the prosecuting attorney as well as the billing for a forensic exam. The medical provider shall send the Sexual Assault Forensic Examination Program Report within three business days of the completion of the forensic examination to the County Prosecuting Attorney's Office in the county where the alleged incident occurred. The form will be available October 1 on the DHSS website at http://www.dhss.mo.gov/ApplicationsAndForms/index.html. The Missouri Prosecuting Attorney's website www.ago.mo.gov/countyprosecutors.htm lists prosecutors' contact information by county.

- The Sexual Assault Forensic Exam Checklist was developed by forensic examination experts to provide guidelines for a standardized, quality forensic exam. The checklist is also a guide to determine the level of care provided to sexual assault victims. Check all items as they apply to the level of care provided during the sexual assault forensic examination.

- The Sexual Assault Forensic Examination Program Report as well as the Sexual Assault Forensic Exam Checklist (check all of the appropriate boxes for services provided) should be completed and mailed with an itemized bill to:
  Missouri Department of Health and Senior Services
  Bureau of Genetics and Healthy Childhood
  Sexual Assault Forensic Examination Program
  930 Wildwood Drive
  P.O. Box 570
  Jefferson City, MO 65102-0570
  Note: please include the provider's remit to address on the form.
  Effective January 1, 2008, all claims must be submitted for payment within 120 days of the date of the exam.

- The DHSS shall make payments to appropriate medical providers to cover the charges of the forensic examination of persons who may be victims of a sexual offense.
  The victim is not to be billed for any sexual assault forensic examination charges.
  All other medical charges should be billed to the appropriate billing agency.

- There are two other victim assistance organizations that may be useful to your patient/client:

  Missouri Coalition Against Domestic and Sexual Violence (MCADSV) can refer clients to the nearest sexual assault service provider for additional support.
  Phone: (573) 634-4161
  Website: www.mocadsv.org

  Missouri Crime Victims' Compensation may reimburse persons who have suffered injuries and financial loss due to certain crimes of violence.
  Phone: (573) 526-6006
  Website: http://www.dps.mo.gov/CVC

- If you need additional information about the Sexual Assault Forensic Examination (SAFE) Program, please contact the Department of Health and Senior Services at (573) 751-6210.

Rev. 8/07
MO-580-1895 (8-07) IVP-1

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
SEXUAL ASSAULT FORENSIC EXAMINATION PROGRAM REPORT

EXAMINATION AND INCIDENT INFORMATION

DATE OF EXAMINATION	TIME ☐ a.m. ☐ p.m.	COUNTY WHERE INCIDENT OCCURRED	DATE OF INCIDENT

EVALUATION FOR SUSPECTED ABUSE
☐ Sexual ☐ Physical ☐ Emotional ☐ Neglect ☐ Other:

ALLEGED ABUSER

AGENCY PERSON REFERRING VICTIM FOR EXAM (CHECK ALL THAT APPLY)

☐ Victim ☐ Parent or Guardian
☐ Children's Division ☐ Law Enforcement
☐ Health Care ☐ Other _____

REFERRING AGENCY OR PERSON NAME | PHONE NUMBER

ADDRESS

VICTIM INFORMATION

VICTIM NAME	DATE OF BIRTH	SEX ☐ Female ☐ Male

RACE ☐ American Indian/Alaska Native ☐ Asian ☐ Black/African American ☐ Native Hawaiian or Pacific Islander ☐ White

HISPANIC ETHNICITY ☐ Yes ☐ No

AUTHORIZATION FOR EXAMINATION REQUESTED BY VICTIM PARENT/GUARDIAN

Parental consent for a sexual assault forensic exam is not required in cases of known or suspected child abuse. I hereby request a forensic examination for evaluation of sexual assault. I understand the collection of evidence may include photographing injuries and that photographs may include the genital area. I understand that a copy of this form will be sent to the Prosecuting Attorney in the county where the alleged sexual assault occurred. I further understand that hospitals and physicians are required by law to notify the Children's Division of known or suspected child abuse. If child abuse is found or suspected, this form and any evidence will be released to the Children's Division, the Juvenile Justice Office, Law Enforcement and/or the Prosecuting Attorney. This form will be submitted to the Department of Health and Senior Services for billing purposes.

SIGNATURE OF (CHECK ONE) ☐ Victim ☐ Parent ☐ Guardian | SIGNATURE

AUTHORIZATION FOR FORENSIC EXAMINATION - REQUESTING AGENCY

I request a forensic examination and collection of evidence for suspected sexual abuse.

AGENCY	SIGNATURE	DATE

EXAMINING PROVIDER: I verify that a sexual assault forensic examination has been completed for this victim and a copy of this form has been submitted within three business days to the prosecuting attorney in the county where the alleged offense occurred.

FACILITY NAME	FACILITY ADDRESS	
MEDICAL PROVIDER NAME AND TITLE	COUNTY OF FACILITY	PHONE NUMBER
STATE MEDICAL/NURSING LICENSE NUMBER		
SIGNATURE OF MEDICAL PROVIDER	SIGNATURE OF CO-EXAMINER (IF APPLICABLE)	

FOR CHILDREN'S DIVISION USE ONLY

Incident Number:	Report Date:	Conclusion:

BILLING INSTRUCTIONS

Effective August 28, 2007, the Department of Health and Senior Services (DHSS) is the first payer for all sexual assault forensic examination charges (RSMo 191.225). **Medical providers shall not bill victims for the sexual assault forensic examination.** The DHSS will only pay for the forensic exam, not the medical treatment, for sexual assault victims. All other medical charges should be billed to the appropriate billing agency. Effective January 1, 2008, all claims must be submitted for payment within 120 days of the date of the exam. **For payments, submit an itemized invoice (including CPT codes if available), the completed checklist and this form to:**

Missouri Department of Health and Senior Services
Bureau of Genetics and Healthy Childhood
Sexual Assault Forensic Examination Program
PO Box 570
Jefferson City, MO 65102-0570

NAME AND TITLE OF PERSON COMPLETING THE BILLING INFORMATION	PHONE

REMIT TO ADDRESS:

MO-580-1895 (8-07) IVP-1

Missouri Department of Health and Senior Services (DHSS) Sexual Assault Forensic Exam Checklist

Check all items as provided during the sexual assault forensic exam.

- ☐ Utilized appropriate evidence collection kit (Kansas City, St. Louis or Highway Patrol Lab)
- ☐ Completed screening exam for Emergency Medical Condition
- ☐ Activated bedside advocacy
- ☐ Activated interpreter
- ☐ Interventions for disabilities
- ☐ Obtained history of assault (including narrative)
- ☐ Obtained history of drug facilitated sexual assault (if indicated)
- ☐ Obtained consent for evaluation and treatment
- ☐ Obtained consent for evidentiary SAFE exam
- ☐ Obtained consent for photography
- ☐ Obtained consent for drug screening (if drug facilitated assault indicated)
- ☐ Obtained consent for release of information to all appropriate agencies
- ☐ Obtained consent for law enforcement activation (per patient request)
- ☐ Collected urine for drug facilitated sexual assault
- ☐ Collected underwear worn during or immediately after the assault
- ☐ Collected clothing, as forensically indicated, in brown paper bags, sealed and labeled
- ☐ Obtained swabs & smears from all areas that victim states were bitten or licked
- ☐ Obtained swabs & smears from appropriate areas as identified using an alternative light source
- ☐ Collected blood standard (if forensically indicated)
- ☐ Utilized crime scene investigators for bite mark impressions (if forensically indicated)
- ☐ Collected oral swab for DNA Standard. (if forensically indicated)
- ☐ Collected oral swabs & smear (if orally assaulted)
- ☐ Collected anal swabs & smear (if forensically indicated)
- ☐ Collected vaginal swabs & smear (if forensically indicated)
- ☐ Collected cervical swabs & smear (if forensically indicated)
- ☐ Collected penile swabs & smear (if forensically indicated)
- ☐ Collected head hair standard (if forensically indicated)
- ☐ Collected pubic hair standard (if forensically indicated)
- ☐ Completed toluidine dye exam (if forensically indicated)
- ☐ Completed X-rays (if indicated)
- ☐ Completed CTs (if indicated)
- ☐ Collected unknown sample(s) (if forensically indicated)
  Describe:

  _____

- ☐ Collected fingernail scrapings (if forensically indicated)
- ☐ Photography: (with colposcope or digital)
  - ☐ Genital photography by forensic examiner
  - ☐ Non-genital photography by forensic examiner
    - ☐ Less than 10 photos
    - ☐ More than 10 photos
- ☐ Forensic evidence storage/log (as indicated)
- ☐ Completion of DHSS Adult Female Sexual Assault Exam Form, Adult Male Sexual Assault Exam Form, or Child Sexual Assault Exam Form
- ☐ Confidential forensic patient file separate from general hospital medical records
- ☐ Forensic exam conducted by forensically trained physician or healthcare provider such as a Sexual Assault Nurse Examiner (SANE)

- Federal Violence Against Women Act prohibits mandatory reporting to law enforcement to obtain services.

Resources:
U.S. Department of Justice, National Protocol for Sexual Assault Medical Forensic Examinations (9/04)

Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient, American College of Emergency Physicians (6/99)

MO-580-1895 (8-07) IVP-1

AUTHORITY: section 191.225, RSMo (SS for SCS for HCS for HB 583, 94th General Assembly, First Regular Session (2007)). Emergency rule filed Sept. 6, 2007, effective Sept. 16, 2007, terminated Nov. 3, 2007. Emergency rule filed Oct. 24, 2007, effective Nov. 3, 2007, expires March 13, 2008. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 5—General Rules

EMERGENCY RULE

20 CSR 2150-5.025 Administration of Influenza Vaccines Per Protocol

PURPOSE: This rule establishes the procedures for pharmacists to administer viral influenza vaccinations per written protocol with a physician.

EMERGENCY STATEMENT: During the First Regular Session of the 94th General Assembly, Senate Substitute for Senate Bill 195 was passed. This legislation amended the definition of "practice of pharmacy" to include the administration of viral influenza vaccines by written protocol authorized by a physician for those over twelve (12) years old; and authorized the State Board of Registration for the Healing Arts and the Missouri State Board of Pharmacy to jointly promulgate rules related to the use of protocols for the administration of viral influenza vaccines.

This emergency rule is necessary to preserve a compelling governmental interest requiring an early effective date of the rule to allow the Missouri State Board of Pharmacy and the Missouri Board of Registration for the Healing Arts to establish a procedure for pharmacists to administer viral influenza vaccinations prior to the 2007-2008 flu season. If the state experiences an "average" or severe flu season, the impact on patient health and health care costs could be significant as the flu is a common cause of preventable hospitalizations and even death in vulnerable populations.

Between one thousand five hundred (1,500) and three thousand (3,000) deaths per year are reported in Missouri due to influenza and related pneumonias. Studies have documented the value of annual viral influenza vaccine programs in preventing hospitalizations and deaths. A number of barriers—including logistics, costs associated with the trained personnel needed to administer an injection, in addition to patient and physician compliance—have made influenza vaccine programs difficult, inconvenient, and expensive.

In Missouri pharmacists are often the most assessable health care provider, especially in rural areas of the state. As the public demand for this service has increased, pharmacists have started filling this gap by providing viral influenza vaccinations. Nationwide pharmacists have administered millions of doses of vaccinations for over ten (10) years, enhancing the capacity of the health-care system to effectively deliver vaccine to adults.

Immediate adoption of rules, authorizing pharmacists to administer vaccinations, will help prevent unnecessary hospitalizations and unnecessary deaths associated with influenza in Missouri, especially in the medically underserved rural areas of the state. Adoption of these rules only through the ordinary rulemaking process will leave the people of the state of Missouri without the benefit of SB 195 (2007) in the 2007–2008 flu season.

As a result, the Missouri State Board of Pharmacy and the Missouri Board of Registration for the Healing Arts jointly find that there is an immediate danger to the public health, safety and/or welfare and a compelling governmental interest that require this emergency action. 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 Missouri State Board of Pharmacy and the Missouri Board of Registration for the Healing Arts believe this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed October 24, 2007, effective November 3, 2007, expires April 30, 2008.*

(1) A pharmacist may administer viral influenza vaccinations:

(A) To persons twelve (12) years of age or older; and

(B) Pursuant to a written protocol authorized by a physician licensed pursuant to Chapter 334, RSMo, who is actively engaged in the practice of medicine in the state of Missouri.

(2) A pharmacist may not delegate the administration of viral influenza vaccinations to another person.

(3) The authorizing physician is responsible for the oversight of, and accepts responsibility for, the viral influenza vaccinations administered by the pharmacist.

(4) Pharmacist Qualifications—A pharmacist who is administering viral influenza vaccinations must:

(A) Hold a current, unrestricted license to practice pharmacy in this state;

(B) Hold a current provider level cardiopulmonary resuscitation (CPR) certification issued by the American Heart Association or the American Red Cross or equivalent;

(C) Successfully complete a certificate program in the administration of viral influenza vaccinations accredited by the Centers for Disease Control, the Accreditation Council for Pharmacy Education (ACPE) or a similar health authority or professional body approved by the board;

(D) Maintain documentation of the above certifications;

(E) Complete a minimum of two (2) hours (0.2 CEU) of continuing education per year related to administration of viral influenza vaccinations. A pharmacist may use the continuing education hours required in this subsection as part of the total continuing education hours required for pharmacist license renewal;

(F) Provide documentation of (A), (B), (C), and (E) of this section to the authorizing physician(s) prior to entering into a protocol or administering viral influenza vaccinations; and

(G) On a yearly basis prior to administering viral influenza vaccinations, establish a new protocol with the authorizing physician and notify the State Board of Pharmacy of their qualifications to do so. This notification shall include the types of drugs being administered and a statement that the pharmacist meets the requirements of (A), (B), (C), (E), and (F) of this section.

(5) General Requirements.

(A) A pharmacist shall administer viral influenza vaccinations in accordance with treatment guidelines established by the Centers for Disease Control and Prevention (CDC) and in accordance with manufacturer's guidelines.

(B) A pharmacist shall comply with all state and federal laws and regulations pertaining to Vaccine Information Statements and informed consent requirements.

(6) Administration by Written Protocol with a Missouri Licensed Physician.

(A) A pharmacist may enter into a written protocol with a physician practicing no further than fifty (50) miles by road for the administration of viral influenza vaccinations to patients twelve (12) years of age or older. The written protocol may be valid for a time period not to exceed one (1) year. The protocol must include the following:

1. The identity of the participating pharmacist and physician, including signatures;

2. Time period of the protocol;

3. The identification of the viral influenza vaccination which may be administered;

4. The identity of the patient or groups of patients to receive the authorized viral influenza vaccination;

5. The identity of the authorized routes and sites of administration allowed;

6. A provision to create a prescription for each administration under the authorizing physician's name;

7. A provision establishing a course of action the pharmacist shall follow to address emergency situations including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks;

8. A provision establishing a length of time the pharmacist shall observe an individual for adverse events following an injection;

9. A provision establishing the disposal of used and contaminated supplies;

10. The identity of the location at which the pharmacist may administer the authorized viral influenza vaccination;

11. Record keeping requirements and procedures for notification of administration; and

12. A provision that allows for termination of the protocol at the request of any party to it at any time.

(B) The protocol shall be signed and dated by the pharmacist and authorizing physician prior to its implementation, signifying that both are aware of its content and agree to follow the terms of the protocol. The authorizing physician and pharmacist shall each maintain a copy of the protocol from the beginning of implementation to a minimum of eight (8) years after termination of the protocol.

(7) Record Keeping.

(A) A pharmacist who administers a viral influenza vaccination shall maintain the following records regarding each administration. These records must be separate from the prescription files of a pharmacy and include:

1. The name, address, and date of birth of the patient;

2. The date, route, and site of the administration;

3. The name, dose, manufacturer, lot number, and expiration date of the vaccination;

4. The name and address of the patient's primary health care provider, as identified by the patient;

5. The name or identifiable initials of the administering pharmacist; and

6. The nature of an adverse reaction and who was notified, if applicable.

(B) All administrations of viral influenza vaccinations must have a prescription as authorized by protocol on file within seventy-two (72) hours after administration at a pharmacy documenting the dispensing of the drug.

(C) All records required by this regulation shall be kept by the pharmacist and be available for two (2) years from the date of such record, for inspecting and copying by the authorizing physician, the State Board of Pharmacy or the State Board of Registration for the Healing Arts and/or their authorized representatives.

(8) Notification Requirement.

(A) A pharmacist administering viral influenza vaccinations shall notify the authorizing physician within seventy-two (72) hours after administration of the following:

1. The identity of the patient;

2. The identity of the viral influenza vaccination administered;

3. The route of administration;

4. The site of the administration;

5. The dose administered; and

6. The date of administration.

(B) The pharmacist shall provide a written report to the patient's primary health care provider, if different than the authorizing physician, containing the documentation required in subsection (A) of this section within fourteen (14) days of the administration.

(C) In the event of any adverse event or reaction experienced by the patient pursuant to a written protocol, the pharmacist shall notify the patient's primary health care provider and authorizing physician, if different, within twenty-four (24) hours after learning of the adverse event or reaction.

(D) A pharmacist administering viral influenza vaccinations shall report the administration to all entities as required by state or federal law.

AUTHORITY: sections 334.125 and 338.010, RSMo as amended by SB 109 2007. Emergency rule filed Oct. 24, 2007 effective Nov. 3, 2007, expires April 30, 2008. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

EMERGENCY AMENDMENT

20 CSR 2150-7.135 Physician Assistant Supervision Agreements. The board is proposing to amend subsection (1)(A), delete section (3) add new sections (3)–(5), delete section (7), renumber the remaining sections accordingly and amend the new sections (6), (10), (11), and (12).

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 2250 are being amended throughout the rule. This amendment also defines a Health Professional Shortage Area and clarifies some parts of the rule.

EMERGENCY STATEMENT: Absence of an emergency amendment will disrupt the continuity of healthcare in health professional shortage areas (HPSA), thus negatively impacting the public health, safety, and welfare. In HPSAs, there is a shortage of healthcare professionals which has led to the reliance on physician assistants by these communities.

HB 497, which was passed by the Missouri Legislature and signed into law by the governor in 2007 requires a physician supervision requirement of sixty-six percent (66%) on-site supervision. HB 497 further allows for less than sixty-six percent (66%) supervision, by waiver, in HPSAs. Waivers are to be provided by the board, pursuant to properly promulgated rules. The only exception allowed by HB 497 prior to the promulgation of this amendment, is a statutory exemption from the sixty-six percent (66%) supervision for physician-physician assistant teams in HPSAs, provided that these teams were in place on April 1, 2007.

Since April 1, 2007, several physician-physician assistant teams have either changed members or have completely been eliminated and replaced by new teams. The physicians in these newly formed teams are required to provide sixty-six percent (66%) supervision until they are able to obtain a waiver from the board pursuant to properly promulgated rules. The need for these teams to be allowed to operate in HPSAs as soon as possible without sixty-six percent (66%) supervision creates the need for an expedited emergency amendment.

Due to the shortage of healthcare professionals in HPSAs, supervising physicians must travel to several different locations to care for patients and are unable to provide sixty-six percent (66%) on-site supervision over their physician assistants. Therefore, absent this

emergency amendment expediting the waiver process, physician assistants in these HPSAs will be required to reduce the number of hours they provide care to patients in order to comply with the sixty-six percent (66%) supervision requirement of HB 497. This, in turn, will cause a disruption in the continuity of healthcare in HPSAs and negatively impact the public health, safety, and welfare in the absence of this emergency amendment. There is a compelling governmental interest in allowing an expedited waiver process to be implemented pursuant to HB 497 for physician assistants who are members of newly formed physician-physician assistant teams or changed teams. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The State Board of Registration for the Healing Arts has determined that this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed on October 19, 2007, effective October 29, 2007, expires April 25, 2008.*

(1) As used in this rule, unless specifically provided otherwise, the term—

(A) Supervising physician—shall mean a physician so designated pursuant to *[4 CSR 150-7.100(4)]* **20 CSR 2150-7.100(4)** who holds a permanent license to practice medicine in the state of Missouri and who is actively engaged in the practice of medicine, except that this shall not include physicians who hold a limited license pursuant to section 334.112, RSMo, or a temporary license pursuant to section 334.045 or 334.046, RSMo, or physicians who have retired from the practice of medicine. A physician meeting these requirements but not so designated may serve as a supervising physician, upon signing a physician assistant supervision agreement for times not to exceed fifteen (15) days, when the supervising physician is unavailable if so specified in the physician assistant supervision agreement;

[(3) A supervising physician as designated pursuant to 4 CSR 150-7.100(4) or otherwise in the physician assistant supervision agreement shall at all times be immediately available to the licensed physician assistant for consultation, assistance, and intervention within the same office facility unless making follow-up patient examinations in hospitals, nursing homes and correctional facilities pursuant to section 334.735.1(8), RSMo or unless practicing under federal law. No physician assistant shall practice without physician supervision or in any location where a supervising physician is not immediately available for consultation, assistance and intervention, except in an emergency situation, pursuant to federal law, or as provided in section 334.735.9, RSMo.]

(3) Except in an emergency situation a supervising physician as designated pursuant to 20 CSR 2150-7.100(4) or otherwise in the physician assistant supervision agreement shall at all times during patient care be readily available to the licensed physician assistant in person or via telecommunication.

(4) Unless the physician-physician assistant team has received a waiver pursuant to 20 CSR 2150-7.136, the supervising physician as designated pursuant to 20 CSR 2150-7.100(4) must be on-site sixty-six percent (66%) of the time that the physician assistant is practicing. This sixty-six percent (66%) on-site supervision must be provided each calendar month.

(5) The on-site supervision required in 20 CSR 2150-7.135(4) shall not apply when a physician assistant is making follow-up patient examinations in hospitals, patient homes, nursing homes and correctional facilities without a supervising physician's presence.

*[(4)]***(6)** A physician assistant shall be limited to *[making follow-up patient examinations in hospitals, nursing homes and correctional facilities]* **practicing at locations** where the supervising physician as designated pursuant to *[4 CSR 150-7.100(4)]* **20 CSR 2150-7.100(4)** or otherwise in the physician assistant supervision agreement, is no further than thirty (30) miles by road, using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention, supervision of patient care or adequate review of services**, unless the supervising physician-physician assistant team receives a waiver pursuant to 20 CSR 2150-7.136**. Physician assistants *[practicing in federally designated health professional shortage areas (HPSAs), shall be limited to practice locations where the supervising physician as designated pursuant to 4 CSR 150-7.100(4) or otherwise in the physician assistant supervision agreement, is no further]* **whose teams receive such waivers must practice no farther** than fifty (50) miles by road, using the most direct route available **from the supervising physician**.

*[(5)]***(7)** No physician may be designated to serve as supervising physician for more than three (3) full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant supervision agreements of hospital employees providing in-patient care services in hospitals as defined in Chapter 197, RSMo.

*[(6)]***(8)** Upon entering into a physician assistant supervision agreement, the supervising physician shall be familiar with the level of skill, training and the competence of the licensed physician assistant whom the physician will be supervising. The provisions contained in the physician assistant supervision agreement between the licensed physician assistant and the supervising physician shall be within the scope of practice of the licensed physician assistant and consistent with the licensed physician assistant's skill, training and competence.

[(7) A licensed physician assistant practicing pursuant to a physician assistant supervision agreement shall work in the same office facility as the supervising physician except as provided in section 334.735.1(8), RSMo and 4 CSR 150-7.135(3) and (4).]

*[(8)]***(9)** The delegated health care services provided for in the physician assistant supervision agreement shall be consistent with the scopes of practice of both the supervising physician and licensed physician assistant including, but not limited to, any restrictions placed upon the supervising physician's practice or license.

*[(9)]***(10)** The physician assistant supervision agreement between a supervising physician and a licensed physician assistant shall—

(A) Include consultation, transportation and referral procedures for patients needing emergency care or care beyond the scope of practice of the licensed physician assistant if the licensed physician assistant practices in a setting where a supervising physician is not continuously present;

(B) Include the method and frequency of review of the licensed physician assistant's practice activities;

(C) Be reviewed at least annually and revised as the supervising physician and licensed physician assistant deem necessary;

(D) Be maintained by the supervising physician and licensed physician assistant for a minimum of eight (8) years after the termination of the agreement;

(E) Be signed and dated by the supervising physician**, alternate supervising physician(s)** and licensed physician assistant prior to its implementation; and

(F) Contain the mechanisms for input for serious or significant changes to a patient.

*[(10)]***(11)** It is the responsibility of the supervising physician to determine and document the completion of *[at least]* a one

(1)-month period of time during which the licensed physician assistant shall practice with a supervising physician continuously present before *[making follow-up visits in hospitals, nursing homes and correctional facilities.]* **practicing in a setting where a supervising physician is not continuously present. A one (1)-month period shall consist of a minimum of one hundred twenty (120) hours in a consecutive thirty (30)-day period.**

*[(11)]***(12)** It is the responsibility of the supervising physician and licensed physician assistant to jointly review and document the work, records, and practice activities of the licensed physician assistant at least once every two (2) weeks. For nursing home practice, such review shall occur at least once a month. *[The supervising physician and the licensed physician assistant shall conduct this review at the site of service except in extraordinary circumstances which shall be documented.]* The documentation of this review shall be available to the Board of Registration for the Healing Arts for review upon request.

*[(12)]***(13)** If any provisions of these rules are deemed by the appropriate federal or state authority to be inconsistent with guidelines for federally funded clinics, individual provisions of these rules shall be considered severable and supervising physicians and licensed physician assistants practicing in such clinics shall follow the provisions of such federal guidelines in these instances. However, the remainder of the provisions of these rules not so affected shall remain in full force and effect for such practitioners.

AUTHORITY: section 334.735, RSMo 2000 ***as amended by House Bill 497 (2007)****. This rule originally filed as 4 CSR 150-7.135. Original rule filed Jan. 3, 1997, effective July 30, 1997. For intervening history, please consult the* ***Code of State Regulations****. Emergency amendment filed Oct. 19, 2007, effective Oct. 29, 2007, expires April 25, 2008. A proposed amendment covering this same material is published in this issue of the* ***Missouri Register****.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

EMERGENCY RULE

20 CSR 2150-7.136 Request for Waiver

PURPOSE: This rule establishes procedures for individual physician-physician assistant teams to apply for alternate minimum amounts of on-site supervision and maximum distance between the supervising physician and physician assistant.

EMERGENCY STATEMENT: Absence of an emergency rule will disrupt the continuity of healthcare in health professional shortage areas (HPSA), thus negatively impacting the public health, safety, and welfare. In HPSAs, there is a shortage of healthcare professionals which has led to the reliance on physician assistants by these communities.

HB 497, which was passed by the Missouri Legislature and signed into law by the governor in 2007 requires a physician supervision requirement of sixty-six percent (66%) on-site supervision. HB 497 further allows for less than sixty-six percent (66%) supervision, by waiver, in HPSAs. Waivers are to be provided by the board, pursuant to properly promulgated rules. The only exception allowed by HB 497 prior to the promulgation of this rule, is a statutory exemption from the sixty-six percent (66%) supervision for physician-physician assistant teams in HPSAs, provided that these teams were in place on April 1, 2007.

Since April 1, 2007, several physician-physician assistant teams have either changed members or have completely been eliminated and replaced by new teams. The physicians in these newly formed teams are required to provide sixty-six percent (66%) supervision until they are able to obtain a waiver from the board pursuant to properly promulgated rules. The need for these teams to be allowed to operate in HPSAs as soon as possible creates the need for an expedited emergency rulemaking.

Due to the shortage of healthcare professionals in HPSAs, supervising physicians must travel to several different locations to care for patients and are unable to provide sixty-six percent (66%) on-site supervision over their physician assistants. Therefore, absent this emergency rule expediting the waiver process, physician assistants in these HPSAs will be required to reduce the number of hours they provide care to patients in order to comply with the sixty-six percent (66%) supervision requirement of HB 497. This, in turn, will cause a disruption in the continuity of healthcare in HPSAs and negatively impact the public health, safety, and welfare in the absence of this emergency rule. There is a compelling governmental interest in allowing an expedited waiver process to be implemented pursuant to HB 497 for physician assistants who are members of newly formed physician-physician assistant teams or changed teams. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The State Board of Registration for the Healing Arts has determined that this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed on October 19, 2007, effective October 29, 2007, expires April 25, 2008.*

(1) A physician-physician assistant team may make application upon forms obtained from the board for a waiver from the minimum on-site supervision and maximum distance requirements specified in section 334.735.1(8), RSMo. No application will be considered unless fully and completely made out on the specified form and properly attested to by both members of the physician-physician assistant team.

(2) Applications must state:

(A) The names, license numbers and telephone numbers of the physician assistant and the supervising physician(s) who make up the physician-physician assistant team;

(B) The specialty of physician assistant and supervising physician(s) who make up the physician-physician assistant team;

(C) The location(s) where the physician assistants will practice and the location(s) of the supervising physician when the physician assistants will be practicing;

(D) How the community or communities served by the supervising physician-physician assistant team would experience reduced access to health care services in the absence of a waiver;

(E) If the practice location is a health professional shortage area;

(F) Whether the clinic is designated as a Federally Qualified Health Center or Rural Health Clinic; and

(G) The amount and type of supervision that will be provided to the physician assistant.

(3) Applications for a waiver will be first considered by the advisory commission for physician assistants. The advisory commission will make a recommendation to the board and will receive the board's advice and consent before approval or denial of an application.

(4) When the advisory commission receives a waiver application, it will publish notice of the application on the board's website and invite public comments. The advisory commission will consider any comments received from members of the public up to fifteen (15) days from the notice in determining whether to recommend approval or denial of the application.

(5) The advisory commission and the board will determine whether an individual physician-physician assistant team meets the criteria for a waiver outlined in section 334.735.2, RSMo using the information provided in the waiver application and the best information available to the board on the availability of health care services in the community or communities served by the physician-physician assistant team. The advisory commission and the board will utilize the most recently available information from the United States Department of Health and Human Services, Health Resources and Services Administration on the extent of health professional shortage areas.

(6) If the advisory commission and the board approve a waiver, the advisory commission and board may establish an alternate minimum amount of time the supervising physician must be on-site while the physician assistant practices. The physician must be on-site a minimum of once every two (2) weeks. The advisory commission and board may also establish an alternate maximum distance between the supervising physician and physician assistant. The alternate maximum distance may not exceed fifty (50) miles.

(7) Once the advisory commission and the board approve a waiver for a physician-physician assistant team, the waiver will remain in effect for one (1) year from the date of issuance.

(8) The physician-physician assistant team will notify the advisory commission and board of any changes to the waiver application data within fifteen (15) days of the change.

(9) If a member of the physician-physician assistant team changes or if any of the eligibility requirements as stated in section 334.735.2, RSMo change, then the physician-physician assistant team must request a new waiver.

(10) The board may refuse to issue a waiver to a physician-physician assistant team if either applicant has previously violated the terms of a prior waiver granted pursuant to section 334.735.2, RSMo.

(11) The Board of Healing Arts may void a current waiver after conducting a hearing and upon a finding of fact that the physician-physician assistant team has failed to comply with the requirements of the waiver.

AUTHORITY: sections 334.125 and 334.735, RSMo as amended by HB 497 (2007). Emergency rule filed Oct. 19, 2007, effective Oct. 29, 2007, expires April 25, 2008. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 6—Pharmaceutical Care Standards

EMERGENCY RULE

20 CSR 2220-6.050 Administration of Influenza Vaccines Per Protocol

PURPOSE: This rule establishes the procedures for pharmacists to administer viral influenza vaccinations per written protocol with a physician.

EMERGENCY STATEMENT: During the First Regular Session of the 94th General Assembly, Senate Substitute for Senate Bill 195 was passed. This legislation amended the definition of "practice of pharmacy" to include the administration of viral influenza vaccines by written protocol authorized by a physician for those over twelve (12) years old; and authorized the State Board of Registration for the Healing Arts and the Missouri State Board of Pharmacy to jointly promulgate rules related to the use of protocols for the administration of viral influenza vaccines.

This emergency rule is necessary to preserve a compelling governmental interest requiring an early effective date of the rule to allow the Missouri State Board of Pharmacy and the Missouri Board of Registration for the Healing Arts to establish a procedure for pharmacists to administer viral influenza vaccinations prior to the 2007–2008 flu season. If the state experiences an "average" or severe flu season, the impact on patient health and health care costs could be significant as the flu is a common cause of preventable hospitalizations and even death in vulnerable populations.

Between one thousand five hundred (1,500) and three thousand (3,000) deaths per year are reported in Missouri due to influenza and related pneumonias. Studies have documented the value of annual viral influenza vaccine programs in preventing hospitalizations and deaths. A number of barriers—including logistics, costs associated with the trained personnel needed to administer an injection, in addition to patient and physician compliance—have made influenza vaccine programs difficult, inconvenient, and expensive.

In Missouri pharmacists are often the most assessable health care provider, especially in rural areas of the state. As the public demand for this service has increased, pharmacists have started filling this gap by providing viral influenza vaccinations. Nationwide pharmacists have administered millions of doses of vaccinations for over ten (I0) years, enhancing the capacity of the health-care system to effectively deliver vaccine to adults.

Immediate adoption of rules, authorizing pharmacists to administer vaccinations, will help prevent unnecessary hospitalizations and unnecessary deaths associated with influenza in Missouri, especially in the medically underserved rural areas of the state. Adoption of these rules only through the ordinary rulemaking process will leave the people of the state of Missouri without the benefit of SB 195 (2007) in the 2007–2008 flu season.

As a result, the Missouri State Board of Pharmacy and the Missouri Board of Registration for the Healing Arts jointly find that there is an immediate danger to the public health, safety and/or welfare and a compelling governmental interest that require this emergency action. 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 Missouri State Board of Pharmacy and the Missouri Board of Registration for the Healing Arts believe this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed October 24, 2007, effective November 3, 2007, expires April 30, 2008.*

(1) A pharmacist may administer viral influenza vaccinations:

(A) To persons twelve (12) years of age or older; and

(B) Pursuant to a written protocol authorized by a physician licensed pursuant to Chapter 334, RSMo, who is actively engaged in the practice of medicine in the state of Missouri.

(2) A pharmacist may not delegate the administration of viral influenza vaccinations to another person.

(3) The authorizing physician is responsible for the oversight of, and accepts responsibility for, the viral influenza vaccinations administered by the pharmacist.

(4) Pharmacist Qualifications—A pharmacist who is administering viral influenza vaccinations must:

(A) Hold a current, unrestricted license to practice pharmacy in this state;

(B) Hold a current provider level cardiopulmonary resuscitation (CPR) certification issued by the American Heart Association or the American Red Cross or equivalent;

(C) Successfully complete a certificate program in the administration of viral influenza vaccinations accredited by the Centers for Disease Control, the Accreditation Council for Pharmacy Education (ACPE) or a similar health authority or professional body approved by the board;

(D) Maintain documentation of the above certifications;

(E) Complete a minimum of two (2) hours (0.2 CEU) of continuing education per year related to administration of viral influenza vaccinations. A pharmacist may use the continuing education hours required in this subsection as part of the total continuing education hours required for pharmacist license renewal;

(F) Provide documentation of (A), (B), (C), and (E) of this section to the authorizing physician(s) prior to entering into a protocol or administering viral influenza vaccinations; and

(G) On a yearly basis prior to administering viral influenza vaccinations, establish a new protocol with the authorizing physician and notify the State Board of Pharmacy of their qualifications to do so. This notification shall include the types of drugs being administered and a statement that the pharmacist meets the requirements of (A), (B), (C), (E), and (F) of this section.

(5) General Requirements.

(A) A pharmacist shall administer viral influenza vaccinations in accordance with treatment guidelines established by the Centers for Disease Control and Prevention (CDC) and in accordance with manufacturer's guidelines.

(B) A pharmacist shall comply with all state and federal laws and regulations pertaining to Vaccine Information Statements and informed consent requirements.

(6) Administration by Written Protocol with a Missouri Licensed Physician.

(A) A pharmacist may enter into a written protocol with a physician practicing no further than fifty (50) miles by road for the administration of viral influenza vaccinations to patients twelve (12) years of age or older. The written protocol may be valid for a time period not to exceed one (1) year. The protocol must include the following:

1. The identity of the participating pharmacist and physician, including signatures;
2. Time period of the protocol;
3. The identification of the viral influenza vaccination which may be administered;
4. The identity of the patient or groups of patients to receive the authorized viral influenza vaccination;
5. The identity of the authorized routes and sites of administration allowed;
6. A provision to create a prescription for each administration under the authorizing physician's name;
7. A provision establishing a course of action the pharmacist shall follow to address emergency situations including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks;
8. A provision establishing a length of time the pharmacist shall observe an individual for adverse events following an injection;
9. A provision establishing the disposal of used and contaminated supplies;
10. The identity of the location at which the pharmacist may administer the authorized viral influenza vaccination;
11. Record keeping requirements and procedures for notification of administration; and
12. A provision that allows for termination of the protocol at the request of any party to it at any time.

(B) The protocol shall be signed and dated by the pharmacist and authorizing physician prior to its implementation, signifying that both are aware of its content and agree to follow the terms of the protocol. The authorizing physician and pharmacist shall each maintain a copy of the protocol from the beginning of implementation to a minimum of eight (8) years after termination of the protocol.

(7) Record Keeping.

(A) A pharmacist who administers a viral influenza vaccination shall maintain the following records regarding each administration. These records must be separate from the prescription files of a pharmacy and include:

1. The name, address, and date of birth of the patient;
2. The date, route, and site of the administration;
3. The name, dose, manufacturer, lot number, and expiration date of the vaccination;
4. The name and address of the patient's primary health care provider, as identified by the patient;
5. The name or identifiable initials of the administering pharmacist; and
6. The nature of an adverse reaction and who was notified, if applicable.

(B) All administrations of viral influenza vaccinations must have a prescription as authorized by protocol on file within seventy-two (72) hours after administration at a pharmacy documenting the dispensing of the drug.

(C) All records required by this regulation shall be kept by the pharmacist and be available for two (2) years from the date of such record, for inspecting and copying by the authorizing physician, the State Board of Pharmacy or the State Board of Registration for the Healing Arts and/or their authorized representatives.

(8) Notification Requirement.

(A) A pharmacist administering viral influenza vaccinations shall notify the authorizing physician within seventy-two (72) hours after administration of the following:

1. The identity of the patient;
2. The identity of the viral influenza vaccination administered;
3. The route of administration;
4. The site of the administration;
5. The dose administered; and
6. The date of administration.

(B) The pharmacist shall provide a written report to the patient's primary health care provider, if different than the authorizing physician, containing the documentation required in subsection (A) of this section within fourteen (14) days of the administration.

(C) In the event of any adverse event or reaction experienced by the patient pursuant to a written protocol, the pharmacist shall notify the patient's primary health care provider and authorizing physician, if different, within twenty-four (24) hours after learning of the adverse event or reaction.

(D) A pharmacist administering viral influenza vaccinations shall report the administration to all entities as required by state or federal law.

AUTHORITY: sections 338.010 and 338.140, RSMo as amended by SB 109 2007. Emergency rule filed Oct. 24, 2007, effective Nov. 3, 2007, expires April 30, 2008. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

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

EXECUTIVE ORDER
07-32

TO ALL DEPARTMENTS AND AGENCIES:

This is to advise that state offices will be closed on Friday, November 23, 2007.

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 23rd 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 symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

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 3—Filing and Reporting Requirements

PROPOSED RULE

4 CSR 240-3.162 Electric Utility Environmental Cost Recovery Mechanisms Filing and Submission Requirements

(1) As used in this rule, the following terms mean:

(A) EFIS means the electronic filing and information system of the commission;

(B) Electric utility means electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapters 386 and 393, RSMo;

(C) Environmental compliance plan means a twenty (20)-year forecast of environmental compliance investments and a detailed four (4)-year plan for complying with federal, state, and local environmental laws, regulations and rules. The four (4)-year plan will include plans to use emission allowances for compliance, plans for emission allowance transactions and, on a generation unit basis, plans for investments in emission control equipment. The environmental compliance plan shall be consistent with the implementation plan of the most recent resource plan filing except as otherwise explained by the electric utility. Approval of an Environmental Cost Recovery Mechanism (ECRM) does not imply approval or predetermination of prudence of the environmental compliance plan;

(D) Environmental Cost Recovery Mechanism (ECRM) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect the net increases or decreases in an electric utility's environmental costs;

(E) Environmental costs means prudently incurred costs, both capital and expense, directly related to compliance with any federal, state, or local environmental law, regulation or rule.

1. Environmental costs do not include fuel and purchased power costs as defined in 4 CSR 240-3.161(1)(A).

2. Prudently incurred costs do not include any increased costs resulting from negligent or wrongful acts or omissions by the utility;

(F) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges of the electric utility are considered by the commission; and

(G) Rate class is a customer class defined in an electric utility's tariff. Generally, rate classes include Residential, Small General Service, Large General Service and Large Power Service, but may include additional rate classes. Each rate class includes all customers served under all variations of the rate schedules available to that class.

(2) When an electric utility files to establish an ECRM as described in 4 CSR 240-20.091(2), the electric utility shall file the following supporting information as part of, or in addition to, its direct testimony:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.091(2)(E);

(B) An example customer bill showing how the proposed ECRM shall be separately identified on affected customers' bills in accordance with 4 CSR 240-20.091(8);

(C) Proposed ECRM rate schedules;

(D) A general description of the design and intended operation of the proposed ECRM;

(E) A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity;

(F) A complete explanation of how the proposed ECRM shall be trued-up to reflect over- or under-collections on at least an annual basis;

(G) A complete description of how the proposed ECRM is compatible with the requirement for prudence reviews;

(H) A complete explanation of all the costs that shall be considered for recovery under the proposed ECRM and the specific account used for each cost item on the electric utility's books and records;

(I) A complete explanation of all of the costs, both capital and expense, incurred to comply with any current federal, state, or local environmental law, regulation or rule that the electric utility is proposing be included in base rates and the specific account used for each cost item on the electric utility's books and records;

(J) A complete explanation of all the revenues that shall be considered in the determination of the amount eligible for recovery under the proposed ECRM and the specific account where each such revenue item is recorded on the electric utility's books and records;

(K) A complete explanation of any feature designed into the proposed ECRM or any existing electric utility policy, procedure, or

practice that can be relied upon to ensure that only prudent costs shall be eligible for recovery under the proposed ECRM;

(L) For each of the major categories of costs that the electric utility seeks to recover through its proposed ECRM, a complete explanation of the specific rate class cost allocations and rate design used to calculate the proposed base amount of environmental costs in permanent rates and any subsequent ECRM rate adjustments during the term of the proposed ECRM;

(M) A complete explanation of any change in business risk to the electric utility resulting from implementation of the proposed ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility;

(N) The electric utility's environmental compliance plan including a complete description of—

1. The electric utility's long-term environmental compliance planning process;

2. The analysis performed to develop the electric utility's environmental compliance plan; and

3. If the environmental compliance plan is inconsistent with the electric utility's most recent resource plan filing, a detailed explanation of why such inconsistencies exist; and

(O) Authorization for the commission staff to release the previous five (5) years of historical surveillance reports submitted to the commission staff by the electric utility to all parties to the case.

(3) When an electric utility files a general rate proceeding following the general rate proceeding that established its ECRM as described by 4 CSR 240-20.091(2) in which it requests that its ECRM be continued or modified, the electric utility shall file with the commission and serve parties, as provided in sections (9) through (11) in this rule, the following supporting information as part of, or in addition to, its direct testimony:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.091(2)(E);

(B) If the electric utility proposes to change the identification of the ECRM on the customer's bill, an example customer bill showing how the proposed ECRM shall be separately identified on affected customers' bills, including the proposed language, in accordance with 4 CSR 240-20.091(8);

(C) Proposed ECRM rate schedules;

(D) A general description of the design and intended operation of the proposed ECRM;

(E) A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity;

(F) A complete explanation of how the proposed ECRM shall be trued-up to reflect over- or under-collections on at least an annual basis;

(G) A complete description of how the proposed ECRM is compatible with the requirement for prudence reviews;

(H) A complete explanation of all the costs that shall be considered for recovery under the proposed ECRM and the specific account used for each cost item on the electric utility's books and records;

(I) A complete explanation of all of the costs, both capital and expense, incurred to comply with any current federal, state, or local environmental law, regulation or rule that the electric utility is proposing be included in base rates and the specific account used for each cost item on the electric utility's books and records;

(J) A complete explanation of all the revenues that shall be considered in the determination of the amount eligible for recovery under the proposed ECRM and the specific account where each such revenue item is recorded on the electric utility's books and records;

(K) A complete explanation of any feature designed into the proposed ECRM or any existing electric utility policy, procedure, or practice that can be relied upon to ensure that only prudent costs shall be eligible for recovery under the proposed ECRM;

(L) For each of the major categories of costs that the electric utility seeks to recover through its proposed ECRM, a complete explanation of the specific rate class cost allocations and rate design used to calculate the proposed base amount of environmental costs in permanent rates and any subsequent ECRM rate adjustments during the term of the proposed ECRM;

(M) A complete explanation of any change in business risk to the electric utility resulting from implementation of the proposed ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility;

(N) A description of how responses to subsections (3)(B) through (M) differ from responses to subsections (3)(B) through (M) for the currently approved ECRM;

(O) The electric utility's environmental compliance plan including a complete description of—

1. The electric utility's long-term environmental compliance planning process;

2. The analysis performed to develop the electric utility's environmental compliance plan; and

3. If the environmental compliance plan is inconsistent with the electric utility's most recent resource plan filing, a detailed explanation of why such inconsistencies exist; and

(P) Any additional information that may have been ordered by the commission in the prior general rate proceeding to be provided.

(4) When an electric utility files a general rate proceeding following the general rate proceeding that established its ECRM as described in 4 CSR 240-20.091(3) in which it requests that its ECRM be discontinued, the electric utility shall file with the commission and serve parties as provided in sections (9) through (11) in this rule, the following supporting information as part of, or in addition to, its direct testimony:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.091(3)(B);

(B) A complete explanation of how the over-collection or under-collection of the ECRM that the electric utility is proposing to discontinue shall be handled;

(C) A complete explanation of why the ECRM is no longer necessary to provide the electric utility a sufficient opportunity to earn a fair return on equity;

(D) A complete explanation of any change in business risk to the electric utility resulting from discontinuation of the ECRM in setting the electric utility's allowed return, in addition to any other changes in business risk experienced by the electric utility; and

(E) Any additional information that may have been ordered by the commission in the prior general rate proceeding to be provided.

(5) Each electric utility with an ECRM shall submit, with an affidavit attesting to the veracity of the information, the following information on a monthly basis to the manager of the auditing department of the commission, the Office of the Public Counsel (OPC) and others, as provided in sections (9) through (11) in this rule. The information may be submitted to the manager of the auditing department through EFIS. The following information shall be aggregated by month and supplied no later than sixty (60) days after the end of each month when the ECRM is in effect. The first submission shall be made within sixty (60) days after the end of the first complete month after the ECRM goes into effect. It shall contain, at a minimum:

(A) The revenues billed pursuant to the ECRM by rate class and voltage level, as applicable;

(B) The revenues billed through the electric utility's base rate allowance by rate class and voltage level;

(C) The electric utility's actual environmental compliance costs and revenues allocated by rate class and voltage level, as applicable, consistent with the most recent commission approved allocation methods and rate design;

(D) All significant factors that have affected the level of ECRM revenues along with workpapers documenting these significant factors;

(E) The difference, by rate class and voltage level, as applicable, between the total environmental revenues collected through base rates and the ECRM and the environmental compliance revenues received and costs incurred;

(F) Any additional information ordered by the commission to be provided; and

(G) To the extent any of the requested information outlined above is provided in response to another section, the information only needs to be provided once.

(6) Each electric utility with an ECRM shall submit, with an affidavit attesting to the veracity of the information, a Surveillance Monitoring Report, which shall be treated as highly confidential, as required in 4 CSR 240-20.091(9), to the manager of the auditing department of the commission, OPC and others as provided in sections (9) through (11) in this rule. The information may be submitted to the manager of the auditing department through EFIS.

(A) There are five (5) parts to the electric utility Surveillance Monitoring Report. Each part, except Part one, Rate Base Quantifications, shall contain information for the last twelve (12)-month period and the last quarter data for total company electric operations and Missouri jurisdictional operations. Page one, Rate Base Quantifications shall contain only information for the ending date of the period being reported. The form of the Surveillance Monitoring Report form is included herein.

1. Rate Base Quantifications Report. The quantification of rate base items on Page one shall be consistent with the methods or procedures used in the most recent rate proceeding unless otherwise specified. The report shall consist of specific rate base quantifications of:

A. Plant in service;
B. Reserve for depreciation;
C. Materials and supplies;
D. Cash working capital;
E. Fuel inventory;
F. Prepayments;
G. Other regulatory assets;
H. Customer advances;
I. Customer deposits;
J. Accumulated deferred income taxes;
K. Any other item included in the utility's rate base in the most recent rate proceeding;
L. Net Operating Income from Page three; and
M. Calculation of the overall return on rate base.

2. Capitalization Quantifications Report. Page two shall consist of specific capitalization quantifications of:

A. Common stock equity (net);
B. Preferred stock (par or stated value outstanding);
C. Long-term debt (including current maturities);
D. Short-term debt; and
E. Weighted cost of capital including component costs.

3. Income Statement. Page three shall consist of an income statement containing specific quantification of:

A. Operating revenues to include sales to industrial, commercial and residential customers, sales for resale and other components of total operating revenues;
B. Operating and maintenance expenses for fuel expense, production expenses, purchased power energy and capacity;
C. Transmission expenses;
D. Distribution expenses;
E. Customer accounts expenses;
F. Customer service and information expenses;
G. Sales expenses;
H. Administrative and general expenses;
I. Depreciation, amortization and decommissioning expense;
J. Taxes other than income taxes;
K. Income taxes; and
L. Quantification of heating degree and cooling degree days, actual and normal.

4. Jurisdictional Allocation Factor Report. Page four shall consist of a listing of jurisdictional allocation factors for the rate base, capitalization quantification reports and income statement.

5. Financial Data Notes. Page five shall consist of notes to financial data including, but not limited to:

A. Out-of-period adjustments;
B. Specific quantification of material variances between actual and budget financial performance;
C. Material variances between current twelve (12)-month period and prior twelve (12)-month period revenue;
D. Expense level of items ordered by the commission to be tracked pursuant to the order establishing the ECRM;
E. Budgeted capital projects;
F. Events that materially affect debt or equity surveillance components; and
G. All settlements in regards to environmental compliance causing the electric utility to incur expenses or make investments in excess of one hundred thousand dollars ($100,000) or fines against the electric utility in regards to environmental compliance greater than one hundred thousand dollars ($100,000).

(B) The Surveillance Monitoring Report shall contain any additional information ordered by the commission to be provided.

(C) The electric utility shall annually submit its approved budget, in electronic form, based upon its budget year in a format similar to the Surveillance Monitoring Report. The budget submission shall provide a quarterly and annual quantification of the electric utility's income statement. The budget shall be submitted within thirty (30) days of its approval by the electric utility's management or within sixty (60) days of the beginning of the electric utility's fiscal year, whichever is earliest. The budget submission shall be treated as highly confidential pursuant to 4 CSR 240-2.135.

(D) If the electric utility has a rate adjustment mechanism as defined in 4 CSR 240-20.090(1)(G), the surveillance report submitted by the electric utility as required by 4 CSR 240-3.161(6) along with information submitted in response to (6)(A)5.G. of this subsection shall meet the surveillance reporting required by this section.

(7) When an electric utility files tariff schedules to adjust an ECRM rate as described in 4 CSR 240-20.091(4) with the commission, and serves upon parties as provided in sections (9) through (11) in this rule, the tariff schedules must be accompanied by supporting testimony, and at least the following supporting information:

(A) The following information shall be included with the filing:

1. For the period from which historical costs are used to adjust the ECRM rate:

A. Emission allowance costs differentiated by purchases, swaps and loans;
B. Net revenues from emission allowance sales, swaps and loans;
C. Extraordinary costs not to be passed through, if any, due to such costs being an insured loss, or subject to reduction due to litigation or for any other reason;
D. Base rate component of environmental compliance costs and revenues; and
E. Any additional requirements ordered by the commission in the prior general rate proceeding;

2. The levels of environmental capital costs and expenses in the base rate revenue requirement from the prior general rate proceeding;

3. The levels of environmental capital cost in the base rate revenue requirement from the prior general rate proceeding as adjusted for the proposed date of the periodic adjustment;

4. The capital structure as determined in the prior general rate proceeding;

5. The cost rates for the electric utility's debt and preferred stock as determined in the prior general rate proceeding;

6. The electric utility's cost of common equity as determined in the prior general rate proceeding;

7. Calculation of the proposed ECRM collection rates; and

8. Calculations underlying any seasonal variation in the ECRM collection rates; and

(B) Workpapers supporting all items in subsection (7)(A) shall be submitted to the manager of the auditing department, and served upon parties as provided in sections (9) through (11) in this rule. The workpapers may be submitted to the manager of the auditing department through EFIS.

(8) When an electric utility that has an ECRM files its application containing its annual true-up with the commission, as described in 4 CSR 240-20.091(5), any rate schedule filing must be accompanied by supporting testimony, and the electric utility shall:

(A) File the following information with the commission and serve upon parties as provided in sections (9) through (11) in this rule:

1. Amount of costs that it has over-collected or under-collected through the ECRM by rate class and voltage level, as applicable;

2. Proposed adjustments or refunds by rate class and voltage level as applicable;

3. Electric utility's short-term borrowing rate; and

4. Any additional information ordered by the commission;

(B) Submit the following information to the manager of the auditing department and serve upon the parties as provided in sections (9) through (11) in this rule. The information may be submitted to the manager of the auditing department through EFIS.

1. Workpapers detailing how the determination of the over-collection or under-collection of costs through the ECRM was made including any model inputs and outputs and the derivation of any model inputs.

2. Workpapers detailing the proposed adjustments or refunds.

3. Basis for the electric utility's short-term borrowing rate.

4. Any additional information ordered by the commission to be provided.

(9) Providing to other parties items required to be filed or submitted in preceding sections (3) through (8). Information required to be filed with the commission or submitted to the manager of the auditing department of the commission and to OPC in sections (3) through (8) shall also be, in the same format, served on or submitted to any party to the related general rate proceeding in which the ECRM was approved by the commission, periodic adjustment proceeding, annual true-up, prudence review, or general rate case to modify, extend or discontinue the same ECRM, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

(10) Party status and providing to other parties affidavits, testimony, information, reports and workpapers in related proceedings subsequent to general rate proceeding establishing ECRM.

(A) A person or entity granted intervention in a general rate proceeding in which an ECRM is approved by the commission, shall be a party to any subsequent related periodic adjustment proceeding, annual true-up or prudence review, without the necessity of applying to the commission for intervention. In any subsequent general rate proceeding, such person or entity must seek and be granted status as an intervenor to be a party to that case. Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related periodic adjustment proceeding, annual true-up, prudence review, or general rate case to modify, extend or discontinue the same ECRM shall be served on or submitted to all parties from the prior related general rate proceeding and on all parties from any subsequent related periodic adjustment proceeding, annual true-up, prudence review, or general rate case to modify, extend or discontinue the same ECRM, concurrently with filing the same with the commission or submitting the same to the manager of the auditing department of the commission and OPC, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

(B) A person or entity not a party to the general rate proceeding in which an ECRM is approved by the commission may timely apply to the commission for intervention, pursuant to 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic adjustment proceeding, annual true-up, or prudence review, or, pursuant to 4 CSR 240-2.075(1) through (5), respecting any subsequent general rate case to modify, extend or discontinue the same ECRM. If no party to a subsequent periodic adjustment proceeding, annual true-up, or prudence review, objects within ten (10) days of the filing of an application for intervention, the applicant shall be deemed as having been granted intervention without a specific commission order granting intervention, unless within the above-referenced ten (10)-day period the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten (10)-day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

(11) Discovery. The results of discovery from a general rate proceeding where the commission may approve, modify, reject extend or discontinue an ECRM, or from any subsequent periodic adjustment proceeding, annual true-up, or prudence review relating to the same ECRM, may be used without a party resubmitting the same discovery requests (data requests, interrogatories, requests for production, requests for admission, or depositions) in the subsequent proceeding to parties that produced the discovery in the prior proceeding, subject to a ruling by the commission concerning any evidentiary objection made in the subsequent proceeding.

(12) Supplementing and updating data requests in subsequent related proceedings. If a party which submitted data requests relating to a proposed ECRM in the general rate proceeding where the ECRM was established or in the general rate proceeding where the same ECRM was modified or extended, or in any subsequent related periodic adjustment proceeding, annual true-up, or prudence review wants the responding party to whom the prior data requests were submitted to supplement or update that responding party's prior responses for possible use in a subsequent related periodic adjustment proceeding, annual true-up, prudence review or general rate case to modify, extend or discontinue the same ECRM, the party which previously submitted the data requests shall submit an additional data request to the responding party to whom the data requests were previously submitted which clearly identifies the particular data requests to be supplemented or updated and the particular period to be covered by the updated response. A responding party to a request to supplement or update shall supplement or update a data request response from: a related general rate proceeding where a ECRM was established; a general rate case where the same ECRM was modified or extended; or a related periodic adjustment proceeding, annual true-up, or prudence review, which the responding party has learned or subsequently learns is in some material respect incomplete or incorrect.

(13) Separate cases for each general rate proceeding involving an ECRM and for each mutually exclusive twelve (12)-month annual true-up period of an ECRM. Each general rate proceeding where the commission may approve, modify, or reject an ECRM; each general rate case where the commission may authorize the modification, extension, or discontinuance of an ECRM; and each mutually exclusive twelve (12)-month period of an ECRM that encompasses an annual true-up, prudence review, and possible periodic adjustments shall comprise a separate case. The same procedures for handling confidential information shall apply, pursuant to 4 CSR 240-2.135, as in the immediately preceding ECRM case for the particular electric utility, unless otherwise directed by the commission on its own motion or as requested by a party and directed by the commission.

(14) New ECRM. For the purposes of this rule, an ECRM, if continued, modified or extended in a general rate case, even in substantially the form approved in the prior general rate proceeding, shall be considered to be a new distinct ECRM after each general rate proceeding required by section 386.266.4(3), RSMo.

(15) Right to Discovery Unaffected. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

(16) Waivers. Provisions of this rule may be waived by the commission for good cause shown.

(17) Rule Review. The commission shall review the effectiveness of this rule by no later than December 31, 2011, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

Electric Company
12 Months Ended _____
Per Books
(IN THOUSANDS OF DOLLARS)
FINANCIAL SURVEILLANCE MONITORING REPORT
RATE BASE AND RATE OF RETURN

Total Company Rate Base	Measurement Basis		12 Months Ended
Plant in Service			
Intangible	End of Period	xxx,xxx	
Production – Steam	End of Period	xxx,xxx	
Production – Nuclear	End of Period	xxx,xxx	
Production – Hydraulic	End of Period	xxx,xxx	
Production – Other	End of Period	xxx,xxx	
Transmission	End of Period	xxx,xxx	
Distribution	End of Period	xxx,xxx	
General	End of Period	xxx,xxx	
Total Plant in Service	End of Period		$ x,xxx,xxx
Reserve for Depreciation			
Intangible	End of Period	xxx,xxx	
Production – Steam	End of Period	xxx,xxx	
Production – Nuclear	End of Period	xxx,xxx	
Production – Hydraulic	End of Period	xxx,xxx	
Production – Other	End of Period	xxx,xxx	
Transmission	End of Period	xxx,xxx	
Distribution	End of Period	xxx,xxx	
General	End of period	xxx,xxx	
Total Reserve for Depreciation			x,xxx,xxx
Net Plant			x,xxx,xxx
Add:			
Materials & Supplies	13 Mo. Avg.		x,xxx,xxx
Cash	(from prior rate case including offsets)		x,xxx,xxx
Fuel Inventory	13 Mo. Avg.		x,xxx,xxx
Prepayments	13 Mo. Avg.		x,xxx,xxx
Other Regulatory Assets	End of Period		x,xxx,xxx
Less:			
Customer Advances	13 Mo. Avg.		x,xxx,xxx
Customer Deposits	13 Mo. Avg.		x,xxx,xxx
Accumulated Deferred Income Taxes	End of Period		x,xxx,xxx
Other Regulatory Liabilities	End of Period		x,xxx,xxx
Other Items from Prior Rate Case	Per rate case method		x,xxx,xxx
(A) Total Rate Base			$ x,xxx,xxx
(B) Net Operating Income			$ x,xxx,xxx
(C) Return on Rate Base Base [(B) / (A)]			

Electric Company
12 Months Ended _____
Per Books
(IN THOUSANDS OF DOLLARS)
FINANCIAL SURVEILLANCE MONITORING REPORT
CAPITAL STRUCTURE AND RATE OF RETURN

Overall Cost of Capital

			Amount	Percent	Cost		Weighted Cost
Long-Term Debt		$	x,xxx,xxe	x.xx%	x.xx%	f	x.xx%
Short-Term Debt			x,xxx,xxe	x.xx%	x.xx%	f	x.xx%
Preferred Stock			x,xxx,xxe	x.xx%	x.xx%	f	x.xx%
Other	d		x,xxx,xxe	x.xx%	x.xx%	f	x.xx%
Common Equity			x,xxx,xxe	x.xx%	x.xx%	a	x.xx%
Total Overall Cost of Capital based on Rate Case Rate of Return on Equity		$	x,xxx,xxx	100.00%			x.xx%

Actual Earned Return on Equity

			Amount	Percent	Cost		Weighted Cost
Long-Term Debt		$	x,xxx,xxe	x.xx%	x.xx%	f	x.xx%
Short-Term Debt			x,xxx,xxe	x.xx%	x.xx%	f	x.xx%
Preferred Stock			x,xxx,xxe	x.xx%	x.xx%	f	x.xx%
Other	d		x,xxx,xxe	x.xx%	x.xx%	f	x.xx%
Common Equity			x,xxx,xxe	x.xx%	x.xx%	c	x.xx%
Total Overall Cost of Capital with Actual Return On Equity		$	x,xxx,xxx	100.00%			x.xx% b

a From last general rate case, Report & Order
b From actual Return on Rate Base, page 1 "Rate Base"
c Calculated after actual Return on Rate Base, per footnote B, is determined
d Other capital structure components from last general rate case, Report & Order
e Actual balance at end of period
f Actual average cost at end of period

Note Additional breakdown may be added per Report & Order authorizing a recovery clause under 4 CSR 240-20

Electric Company
Quarter Ended and 12 Months Ended _____
Per Books
(IN THOUSANDS OF DOLLARS)
FINANCIAL SURVEILLANCE MONITORING REPORT
OPERATING INCOME STATEMENT

	Quarter Ended Actual		12 Months Ended Actual	
Operating Revenues				
Sales to Residential, Commercial, & Industrial Customers				
Residential	$ x,xxx,xxx		$ x,xxx,xxx	
Commercial	x,xxx,xxx		x,xxx,xxx	
Industiral	x,xxx,xxx		x,xxx,xxx	
Total of Sales to Residential, Commercial, & Industrial Customers		$ x,xxx,xxx		$ x,xxx,xxx
Other Sales to Ultimate customers		x,xxx,xxx		x,xxx,xxx
Sales for Resale\				
Off-system Sales		x,xxx,xxx		x,xxx,xxx
Other Sales for Resale		x,xxx,xxx		x,xxx,xxx
Provision for Refunds		x,xxx,xxx		x,xxx,xxx
Other Operating Revenues		x,xxx,xxx		x,xxx,xxx
Operating Revenues		$ x,xxx,xxx		$ x,xxx,xxx
Operating & Maintenance Expenses:				
Production Expenses:				
Fuel Expense				
Native Load	x,xxx,xxx		x,xxx,xxx	
Off-System Sales	x,xxx,xxx		x,xxx,xxx	
Other Production-Operations	x,xxx,xxx		x,xxx,xxx	
Other Production-Maintenance	x,xxx,xxx		x,xxx,xxx	
Purchased Power-Energy				
Native Load	x,xxx,xxx		x,xxx,xxx	
Off System Sales	x,xxx,xxx		x,xxx,xxx	
Purchased Power-Capacity	x,xxx,xxx		x,xxx,xxx	
Total Production Expenses`		x,xxx,xxx		x,xxx,xxx
Transmission Expenses		x,xxx,xxx		x,xxx,xxx
Distribution Expenses		x,xxx,xxx		x,xxx,xxx
Customer Accounts Expense		x,xxx,xxx		x,xxx,xxx
Customer Serve. & Info. Expenses		x,xxx,xxx		x,xxx,xxx
Sales Expenses		x,xxx,xxx		x,xxx,xxx
Administrative & General Expenses		x,xxx,xxx		x,xxx,xxx
Total Operating & Maintenance Expenses		$ x,xxx,xxx		$ x,xxx,xxx
Depreciation & Amortization Expense				
Depreciation Expense	x,xxx,xxx		x,xxx,xxx	
Amortization Expense	x,xxx,xxx		x,xxx,xxx	
Decommissioning Expense	x,xxx,xxx		x,xxx,xxx	
Other	x,xxx,xxx		x,xxx,xxx	
Total Depreciation & Amortization Expense		x,xxx,xxx		x,xxx,xxx
Taxes Other than Income Taxes		xxx,xxx		xxx,xxx
Operating Income Before Income Tax		x,xxx,xxx		x,xxx,xxx
Income Taxes		xxx,xxx		x,xxx,xxx
Net Operating Income		$ x,xxx,xxx		$ x,xxx,xxx
Actual Cooling Degree Days		x,xxx		x,xxx
Normal Cooling Degree Days		x,xxx		x,xxx
Actual Heaging Degree Days		x,xxx		x,xxx
Normal Heating Degree Days		x,xxx		x,xxx

Electric Company
12 Months Ended _____
FINANCIAL SURVEILLANCE MONITORING REPORT
Missouri Jurisdictional Allocation Factors

Description	Allocation Factor
Plant in Service	
Intangible	
Production – Steam	
Production – Nuclear	
Production – Hydraulic	
Production – Other	
Transmission	
Distribution	
General	
Depreciation Reserve	
Intangible	
Production – Steam	
Production – Nuclear	
Production – Hydraulic	
Production – Other	
Transmission	
Distribution	
General	
Net Plant	
Materials & supplies	
Cash Working Capital	per rate case
Fuel Inventory	
Prepayments	
Other Regulatory Assets	Jurisdictional Specific
Customer Advances	
Customer Deposits	
Accumulated Deferred Income Taxes	
Other Regulatory Liabilities	Jurisdictional Specific
Other Items from Prior Rate Case	
Operating Revenues	
Interchange Revenues	
Production Expenses:	
Fuel Expense	
Native Load	
Off-System Sales	
Other Production – Operations	
Other Production – Maintenance	
Purchased Power – Energy	
Native Load	
Off-System Sales	
Purchased Power – Capacity	
Total Production Expenses	
Transmission Expenses	
Distribution Expenses	
Customer Accounts Expense	
Customer Serve. & Info. Expenses	
Sales Expenses	
Administrative & General Expenses	
Depreciation Expense	
Depreciation Expense	
Amortization Expense	
Decommissioning Expense	
Taxes, Other than Income	
Income Taxes	
Other Items	
xxxx	
xxxx	
xxxx	

Note Additional breakdown may be added per Report & Order authorizing a recovery clause under 4 CSR 240-20

Electric Company
Quarter Ended and 12 Months Ended _____
Per Books
FINANCIAL SURVEILLANCE MONITORING REPORT

NOTES TO FINANCIAL SURVEILLANCE REPORT

AUTHORITY: sections 386.250 and 393.140, RSMo 2000, and 386.266, RSMo Supp. 2006. Original rule filed Oct. 31, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule 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 January 2, 2008, and should include a reference to Commission Case No. EX-2008-0105. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. 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 rule is scheduled for January 17, 2008, at 10:00 am in Room 310 of 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 rule, 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 or TDD Hotline 1-800-829-7541.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Proposed Rule 4 CSR 240-3.162 and 4 CSR 240-20.091, Environmental Cost Recovery Mechanisms.	))))	**Case No. EX-2008-0105**

DISSENTING OPINION OF COMMISSIONER ROBERT M CLAYTON III

This Commissioner objects to the majority's decision to initiate a rulemaking authorizing a new utility-benefitting surcharge while ignoring critically important Reliability Rules which have been stalled in the rulemaking process. The majority agreed to send the proposed Environmental Cost Recovery Mechanism (ECRM) Rule to the Secretary of State for publication, which commences the former rulemaking process, while the consumer-benefitting Reliability Rule has been delayed at the Department of Economic Development (DED) since August 2nd. The ECRM, which authorizes utilities to assess an additional surcharge on consumers pursuant to SB179, was sent to the DED on October 16, 2007 and was returned on October 23, 2007: a turn-around of one week. In stark contrast, the Commission voted to send the Reliability Rule to DED on August 2, 2007. Nearly three months have passed and the Commission has been unable to act on essential tools to improve electrical reliability for Missouri consumers.

This Commissioner is frustrated with DED's failure to return the Reliability Rule to the Commission for further action. By statute, DED's role in the PSC rulemaking process is to review the fiscal note and the Director must submit an affidavit stating the fiscal note is

reasonably accurate. It is not DED's role to pass judgment on the merits of a proposed rulemaking.

Following the investigation into the storms of 2006, this Commissioner believes establishing high standards for electrical reliability is of the utmost importance. That investigation found evidence of poor reliability both during storm conditions and under normal weather conditions. The results of the investigation have led to a three-pronged approach to improving reliability, including rules affecting vegetation management practices and reporting as well as infrastructure inspection and replacement. While this Commissioner has been disappointed that the majority failed to adopt adequate rules in vegetation management and infrastructure inspection, improved reliability service can still be snatched from the jaws of mediocre service by adoption of the most important leg on the "three-legged stool" relating to reliability standards and reporting. Ratepayers are entitled to reliable service which will result from these aggressive new standards that have never before existed in Missouri.

Unfortunately, the DED has prioritized the ECRM rule – a rule that will clearly benefit electric utilities financially, while it flagrantly disregards a rule that will demand high standards for reliable electrical service and action to rectify those reliability problems. This Commissioner cannot vote to advance the ECRM in the rulemaking process while the Reliability Rule is ignored as unimportant. Such a vote endorses the prioritization of a rule that benefits a utility while a rule that sets high standards for electric utilities is prevented from advancing in the rulemaking process.

This Commission has a responsibility to balance the interests of utility shareholders and ratepayers. By moving forward with the new surcharge rulemaking while delaying reliability, the balance is shifted in favor of the utilities over consumers. Following the storms of 2006 and

2007, the public and the General Assembly demanded that the Commission take strong, responsible action at improving service to Missouri customers. Reliability standards must be in place to measure utility performance and improve reliability.

For the foregoing reasons, this Commissioner dissents from the majority's vote to send the ECRM rule to the Secretary of State for publication and urges prompt action on the proposed rules relating to reliability.

Respectfully submitted,

Robert M. Clayton III
Commissioner

Dated at Jefferson City, Missouri,
on this 31st day of October 2007.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities

PROPOSED RULE

4 CSR 240-20.091 Electric Utility Environmental Cost Recovery Mechanisms

PURPOSE: This rule allows the establishment of an Environmental Cost Recovery Mechanism, which allows periodic rate adjustments to reflect net increases or decreases in an electric utility's prudently incurred costs directly related to compliance with any federal, state, or local environmental law, regulation or rule.

(1) Definitions. As used in this rule, the following terms mean as follows:

(A) Electric utility means electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapters 386 and 393, RSMo;

(B) Environmental Cost Recovery Mechanism (ECRM) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect the net increases or decreases in an electric utility's incurred environmental costs;

(C) Environmental costs means prudently incurred costs, both capital and expense, directly related to compliance with any federal, state, or local environmental law, regulation or rule.

1. Environmental costs do not include fuel and purchased power costs as defined in 4 CSR 240-20.090(1)(B).

2. Prudently incurred costs do not include any increased costs resulting from negligent or wrongful acts or omissions by the utility;

(D) Environmental revenue requirement means the environmental costs identified in the general rate proceeding which forms the base for future periodic adjustments of the ECRM;

(E) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges of the electric utility are considered by the commission;

(F) Rate class is a customer class as defined in an electric utility's tariff. Generally, rate classes include Residential, Small General Service, Large General Service and Large Power Service, but may include additional rate classes. Each rate class includes all customers served under all variations of the rate schedules available to that class;

(G) Staff means the staff of the Public Service Commission; and

(H) True-up year means the twelve (12)-month period beginning on the first day of the first calendar month following the effective date of the commission order approving an ECRM unless the effective date is on the first day of the calendar month. If the effective date of the commission order approving a rate mechanism is on the first day of a calendar month, then the true-up year begins on the effective date of the commission order. The first annual true-up period shall end on the last day of the twelfth calendar month following the effective date of the commission order establishing the ECRM. Subsequent true-up years shall be the succeeding twelve (12)-month periods. If a general rate proceeding is concluded prior to the conclusion of a true-up year, the true-up year may be less than twelve (12) months. If the commission approves both a fuel adjustment clause mechanism and an ECRM for the electric utility, the true-up year will be the same for both.

(2) Applications to Establish, Continue or Modify an ECRM. Pursuant to the provisions of this rule, 4 CSR 240-2.060 and section 386.266, RSMo, only an electric utility in a general rate proceeding may file an application with the commission to establish, continue or modify an ECRM by filing tariff schedules. Any party in a general rate proceeding in which an ECRM is in effect or proposed may seek to continue, modify or oppose the ECRM. The commission shall approve, modify or reject such applications to establish an ECRM only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility.

(A) The commission may approve the establishment, continuation or modification of an ECRM and rate schedules implementing an ECRM provided that it finds that the ECRM it approves is reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity.

(B) The commission may take into account any change in business risk to the utility resulting from establishment, continuation or modification of the ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.

(C) In determining which environmental cost components to include in an ECRM, the commission will consider, but is not limited to only considering, the magnitude of the costs, the ability of the utility to manage the costs, the incentive provided to the utility as a result of the inclusion or exclusion of the cost, and the extent to which the cost is related to environmental compliance.

(D) The commission may, in its discretion, determine what portion of prudently incurred environmental costs may be recovered in an ECRM and what portion shall be recovered in base rates.

(E) Any party to the general rate proceeding may oppose the establishment, continuation or modification of an ECRM and/or may propose alternative ECRMs for the commission's consideration including but not limited to modifications to the electric utility's proposed ECRM.

(F) The ECRM shall be based on environmental costs that have been incurred by the electric utility.

(G) If an ECRM is approved, the commission shall determine an environmental revenue requirement portion of the electric utility's overall revenue requirement to which base rates are deemed as applying.

(H) If costs are requested to be recovered through the ECRM and the revenue to be collected in the ECRM rate schedules exceeds two and one-half percent (2.5%) of the electric utility's Missouri annual gross jurisdictional revenues, the electric utility cannot subsequently request that any cost identified as an environment's cost be recovered through a fuel rate adjustment mechanism.

(I) The electric utility shall include in its initial notice to customers regarding the general rate case, a commission approved description of how the costs passed through the proposed ECRM requested shall be applied to monthly bills.

(J) The electric utility shall meet the filing requirements in 4 CSR 240-3.162(2) in conjunction with an application to establish an ECRM and 4 CSR 240-3.162(3) in conjunction with an application to continue or modify an ECRM.

(3) Application for Discontinuation of an ECRM. The commission shall allow or require the rate schedules that define and implement an ECRM to be discontinued and withdrawn only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that affect the cost or overall rates and charges of the petitioning electric utility.

(A) Any party to the general rate proceeding may oppose the discontinuation of an ECRM on the grounds that the electric utility is currently, or in the next four (4) years, is likely to experience declining costs. If the commission finds that the electric utility is seeking to discontinue the ECRM under these circumstances, the commission shall not permit the ECRM to be discontinued, and shall order its continuation or modification. To continue or modify the ECRM under such circumstances, the commission must find that it provides the electric utility with a sufficient opportunity to earn a fair rate of return on equity.

(B) The commission may take into account any change in business risk to the corporation resulting from discontinuance of the ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.

(C) The electric utility shall include in its initial notice to customers regarding the general rate case, a commission approved description of why it believes the ECRM should be discontinued.

(D) Subsections (2)(C) through (H) shall apply to any proposal for continuation or modification.

(E) The electric utility shall meet the filing requirements in 4 CSR 240-3.162(4).

(4) Periodic Adjustments of ECRMs. If an electric utility files proposed rate schedules to adjust its ECRM rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.162 and additional information obtained through discovery, if any, to determine if the proposed adjustment to the ECRM is in accordance with the provisions of this rule, section 386.266, RSMo and the ECRM established in the most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules to adjust its ECRM rates. If the ECRM rate adjustment is in accordance with the provisions of this rule, section 386.266, RSMo, and the ECRM established in the most recent general rate proceeding, the commission shall either issue an interim rate adjustment order approving the tariff schedules and the ECRM rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the ECRM rate adjustments shall take effect sixty (60) days after the tariff schedules were filed. If the ECRM rate adjustment is not in accordance with the provisions of this rule, section 386.266, RSMo, or the ECRM established in the most recent rate proceeding, the commission shall reject the proposed rate schedules within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate interim rate schedule(s).

(A) The periodic adjustment shall be based on environmental costs incurred since the prior general rate proceeding.

(B) The periodic adjustment shall consist of a comprehensive measurement of both increases and decreases to the environmental revenue requirement established in the prior general rate proceeding plus the additional environmental costs.

(C) Any periodic adjustment made to ECRM rate schedules shall not generate an annual amount of general revenue that exceeds two and one-half percent (2.5%) of the electric utility's Missouri gross jurisdictional revenues established in the electric utility's most recent general rate proceeding.

1. Missouri gross jurisdictional revenues shall be the amount established in the electric utility's most recent general rate proceeding and exclude gross receipts tax, sales tax and other similar pass-through taxes not included in tariffed rates for regulated services;

2. The electric utility shall be permitted to collect any applicable gross receipts tax, sales tax, or other similar pass-through taxes and such taxes shall not be counted against the two and one-half percent (2.5%) rate adjustment cap; and

3. Any environmental costs, to the extent addressed by the ECRM, not recovered as a result of the two and one-half percent (2.5%) limitation on rate adjustments may be deferred, at a carrying cost each month equal to the utility's net of tax cost of capital, for recovery in a subsequent year or in the utility's next general rate proceeding.

(D) An electric utility with an ECRM shall file one (1) mandatory adjustment to its ECRM in each true-up year coinciding with the true-up of its ECRM. It may also file one (1) additional adjustment to its ECRM within a true-up year with the timing and number of such additional filings to be determined in the general rate proceeding establishing the ECRM and in general rate proceedings thereafter.

(E) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its monthly reporting requirements as required by 4 CSR 240-3.162(5) in order for the commission to process the electric utility's requested ECRM adjustment increasing rates.

(F) If the staff, Office of the Public Counsel (OPC) or other party who receives the information that the electric utility is required to submit in 4 CSR 240-3.162 and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.162 and the commission order establishing the ECRM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff schedules to adjust the ECRM rates and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was in compliance with the requirements of 4 CSR 240-3.162, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing time line for the adjustment to increase ECRM rates shall be suspended. If the commission then issues an order requiring the information be provided, the time necessary for the information to be provided shall further extend the processing time line for the adjustment to increase ECRM rates. For good cause shown the commission may further suspend this time line. Any delay in providing sufficient information in compliance with 4 CSR 240-3.162 in a request to decrease ECRM rates shall not alter the processing time line.

(5) True-ups of an ECRM. An electric utility that files for an ECRM shall include in its tariff schedules and application, if filed in addition to tariff schedules, provision for true-ups on at least an annual basis which shall accurately and appropriately remedy any over-collection or under-collection through subsequent rate adjustments or refunds.

(A) The subsequent true-up rate adjustments or refunds shall include interest at the electric utility's short-term borrowing rate. The interest rate on accumulated ECRM under-collections or over-collections shall be calculated on a monthly basis for each month the ECRM rate is in effect, equal to the weighted average interest rate paid by the electric utility on short-term debt for that calendar month. This rate shall then be applied to a simple average of the same month's beginning and ending cumulative ECRM over-collection or under-collection balance. Each month's accumulated interest shall be included in the ECRM over-collection or under-collection balances on an ongoing basis.

(B) The true-up adjustment shall be the difference between the revenue collected and the revenue authorized for collection during the true-up period and billed revenues associated with the ECRM during the true-up period.

(C) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its monthly reporting requirements as required by 4 CSR 240-3.162(5) at the time that it files its application for a true-up of its ECRM in order for the commission to process the electric utility's requested annual true-up of any under-collection.

(D) The staff shall examine and analyze the information filed by the electric utility pursuant to 4 CSR 240-3.162 and additional information obtained through discovery, to determine whether the true-up is in accordance with the provisions of this rule, section 386.266, RSMo and the ECRM established in the electric utility's most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules for a true-up. The commission shall either issue an order deciding the true-up within sixty (60) days of the electric utility's filing, suspend the time line of the true-up in order to receive additional

evidence and hold a hearing if needed or, if no such order is issued, the tariff schedules and the ECRM rate adjustments shall take effect by operation of law sixty (60) days after the electric utility's filing.

1. If the staff, OPC or other party who receives the information that the electric utility is required to submit in 4 CSR 240-3.162 and as ordered by the commission in a previous proceeding, believes the information that is required to be submitted pursuant to 4 CSR 240-3.162 and the commission order establishing the ECRM has not been submitted or is insufficient to make a recommendation regarding the electric utility's true-up filing, it shall notify the electric utility within ten (10) days of the electric utility's filing and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was responsive to the requirements, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing time line for the adjustment to the ECRM rates shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing time line. For good cause shown the commission may further suspend this time line.

2. If the party requesting the information can demonstrate to the commission that the adjustment shall result in a reduction in the ECRM rates, the processing time line shall continue with the best information available. When the electric utility provides the necessary information, the ECRM shall be adjusted again, if necessary, to reflect the additional information provided by the electric utility.

(6) Duration of ECRMs and Requirement for General Rate Case. Once an ECRM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification, extension, or discontinuance of the ECRM in a general rate proceeding, although an electric utility may submit proposed rate schedules to implement periodic adjustments to its ECRM rates between general rate proceedings.

(A) If the commission approves an ECRM for an electric utility, the electric utility must file a general rate case with the effective date of new rates to be no later than four (4) years after the effective date of the commission order implementing the ECRM, assuming the maximum statutory suspension of the rates so filed.

(B) The four (4)-year period shall not include any periods in which the electric utility is prohibited from collecting any charges under the adjustment mechanism, or any period for which charges collected under the ECRM must be fully refunded. In the event a court determines that the ECRM is unlawful and all moneys collected are fully refunded as a result of such a decision, the electric utility shall be relieved of any obligation to file a rate case. The term fully refunded as used in this section does not include amounts refunded as a result of reductions in net environmental compliance costs or prudence adjustments.

(7) Prudence Reviews Respecting an ECRM. A prudence review of the costs subject to the ECRM shall be conducted no less frequently than at eighteen (18)-month intervals.

(A) All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in subsection (5)(A).

(B) The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred eighty (180) days after the staff initiates its prudence audit. The timing and frequency of prudence audits for each ECRM shall be established in the general rate proceeding in which the ECRM is established. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.

1. If the staff, OPC or other party auditing the ECRM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's ECRM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing time line shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing time line. For good cause shown the commission may further suspend this time line.

2. If the time line is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in subsection (5)(A).

(8) Disclosure on Customers' Bills. Any amounts charged under an ECRM approved by the commission shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to the commission for the commission's approval.

(9) Submission of Surveillance Monitoring Reports. Each electric utility with an approved ECRM shall submit to staff, OPC and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.162(6).

(A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the ECRM.

(B) If the electric utility also has an approved fuel rate adjustment mechanism, the electric utility must submit a single Surveillance Monitoring Report for both the ECRM and the fuel rate adjustment mechanism. However, for the Surveillance Monitoring Report to be complete for the ECRM, it must include a list of all settlements in regards to environmental compliance causing the electric utility to incur expenses or make investments in excess of one hundred thousand dollars ($100,000) or fines against the electric utility in regards to environmental compliance greater than one hundred thousand dollars ($100,000) as required in 4 CSR 240-3.162(6)(A)5.G.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.162(6), after notice and an opportunity for a hearing, the commission may suspend an ECRM or order other appropriate remedies as provided by law.

(10) Pre-Existing Adjustment Mechanisms, Tariffs and Regulatory Plans. The provisions of this rule shall not affect:

(A) Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

(11) Nothing in this rule shall preclude a complaint case from being filed, as provided by law, on the grounds that a utility is earning more than a fair return on equity, nor shall an electric utility be permitted to use the existence of its ECRM as a defense to a complaint case based upon an allegation that it is earning more than a fair return on equity. If a complaint is filed on the grounds that a utility is earning

more than a fair return on equity, the commission shall issue a procedural schedule that includes a clear delineation of the case time line no later than sixty (60) days from the date the complaint is filed.

(12) Rule Review. The commission shall review the effectiveness of this rule by no later than June 30, 2011, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

(13) Waiver of Provisions of this Rule. Provisions of this rule may be waived by the commission for good cause shown after an opportunity for a hearing.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and 386.266, Supp. 2006. Original rule filed Oct. 31, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule 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 January 2, 2008, and should include a reference to Commission Case No. EX-2008-0105. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. 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 rule is scheduled for January 17, 2008, at 10:00 am in Room 310 of 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 rule, 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 or TDD Hotline 1-800-829-7541.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Proposed Rule 4 CSR 240-3.162 and 4 CSR 240-20.091, Environmental Cost Recovery Mechanisms.	))))	**Case No. EX-2008-0105**

DISSENTING OPINION OF COMMISSIONER ROBERT M CLAYTON III

This Commissioner objects to the majority's decision to initiate a rulemaking authorizing a new utility-benefitting surcharge while ignoring critically important Reliability Rules which have been stalled in the rulemaking process. The majority agreed to send the proposed Environmental Cost Recovery Mechanism (ECRM) Rule to the Secretary of State for publication, which commences the former rulemaking process, while the consumer-benefitting Reliability Rule has been delayed at the Department of Economic Development (DED) since August 2nd. The ECRM, which authorizes utilities to assess an additional surcharge on consumers pursuant to SB179, was sent to the DED on October 16, 2007 and was returned on October 23, 2007: a turn-around of one week. In stark contrast, the Commission voted to send the Reliability Rule to DED on August 2, 2007. Nearly three months have passed and the Commission has been unable to act on essential tools to improve electrical reliability for Missouri consumers.

This Commissioner is frustrated with DED's failure to return the Reliability Rule to the Commission for further action. By statute, DED's role in the PSC rulemaking process is to review the fiscal note and the Director must submit an affidavit stating the fiscal note is

reasonably accurate. It is not DED's role to pass judgment on the merits of a proposed rulemaking.

Following the investigation into the storms of 2006, this Commissioner believes establishing high standards for electrical reliability is of the utmost importance. That investigation found evidence of poor reliability both during storm conditions and under normal weather conditions. The results of the investigation have led to a three-pronged approach to improving reliability, including rules affecting vegetation management practices and reporting as well as infrastructure inspection and replacement. While this Commissioner has been disappointed that the majority failed to adopt adequate rules in vegetation management and infrastructure inspection, improved reliability service can still be snatched from the jaws of mediocre service by adoption of the most important leg on the "three-legged stool" relating to reliability standards and reporting. Ratepayers are entitled to reliable service which will result from these aggressive new standards that have never before existed in Missouri.

Unfortunately, the DED has prioritized the ECRM rule – a rule that will clearly benefit electric utilities financially, while it flagrantly disregards a rule that will demand high standards for reliable electrical service and action to rectify those reliability problems. This Commissioner cannot vote to advance the ECRM in the rulemaking process while the Reliability Rule is ignored as unimportant. Such a vote endorses the prioritization of a rule that benefits a utility while a rule that sets high standards for electric utilities is prevented from advancing in the rulemaking process.

This Commission has a responsibility to balance the interests of utility shareholders and ratepayers. By moving forward with the new surcharge rulemaking while delaying reliability, the balance is shifted in favor of the utilities over consumers. Following the storms of 2006 and

2007, the public and the General Assembly demanded that the Commission take strong, responsible action at improving service to Missouri customers. Reliability standards must be in place to measure utility performance and improve reliability.

For the foregoing reasons, this Commissioner dissents from the majority's vote to send the ECRM rule to the Secretary of State for publication and urges prompt action on the proposed rules relating to reliability.

Respectfully submitted,

Robert M. Clayton III
Commissioner

Dated at Jefferson City, Missouri,
on this 31st day of October 2007.

Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 9—Consumer Information

PROPOSED RULE

6 CSR 10-9.010 Rules for the Posting of Consumer Information

PURPOSE: This rule describes the information that public institutions of higher education must post on their web sites.

(1) Definitions.

(A) The term "course" shall mean any regularly scheduled instructional activity:

1. For which, upon successful completion thereof, enrolled students are given credit that can be applied to meet the requirements for achieving a degree, certificate, or similar academic award; or

2. That provides remedial instruction to students enrolled in the institution;

3. But need not include thesis or dissertation supervision; independent study; directed study or reading courses; internship supervision; individual lessons, mentoring, or supervised experiences; or any other similar activity with such a low number of enrolled students as to allow respondents to be personally identified.

(B) The term "course information" shall include a schedule listing all courses that will be offered during an academic term, all sections of each course, the name(s) of the faculty member(s) who will teach each class, and the time and location at which each course will be offered.

(C) The term "credentials" shall include the highest post-secondary degree or certificate earned by the faculty member and the faculty member's rank (e.g., full professor, teaching assistant).

(D) The terms "faculty" and "faculty member" shall refer to each person assigned full or partial responsibility for delivery of academic course(s) at a Missouri public higher education institution and includes but is not limited to the following categories: adjunct, part-time, and full-time instructors and lecturers; and graduate students and graduate assistants who teach all or part of any course. The terms "faculty" and "faculty member" shall not include guest speakers, tutors, and practicum or internship supervisors.

(E) The term "feasible" shall mean capable of being performed.

(F) The terms "instructor ratings by students" and "ratings" shall mean certain evaluative information, as designated by each institution, collected at least annually, provided by students enrolled in a course about the performance of the faculty member(s) responsible for delivery of all or part of the course. Ratings posted on an institution's web site need not include all information collected in regularly conducted evaluations of faculty by students and may consist of information gathered specifically for publication on the institution's web site.

(G) The term "post" shall mean to publish on an institution's web site.

(H) The terms "public higher education institution" and "institution" shall mean an educational institution as defined in section 173.205.2 or 173.205.3, RSMo.

(I) The term "section" shall mean:

1. In cases where more than one (1) course with the same prefix, course number, and course title are offered, each distinct offering in which students may enroll; and/or

2. Each separate subdivision within one (1) course in which students break into groups in a formal manner to discuss and/or practice course content.

(2) Each institution shall post each of the following on a portion of its web site that is available to the general public without a login, student ID, user ID, or other password, except that no institution shall be required to post any item the publication of which would constitute a violation of state or federal law:

(A) The Names of all Faculty Members. This information must be posted no later than the first day of the first academic term starting on or after August 1, 2008, and for each academic term thereafter.

(B) Each Faculty Member's Credentials. This information must be posted no later than the first day of the first academic term starting on or after August 1, 2008, and for each academic term thereafter.

(C) No later than ten (10) calendar days before the first day that any student may enroll for the next academic term, all available course information for the next academic term. If course information is not available ten (10) calendar days before the first day that any student may enroll for the next academic term, the institution shall post the information on its web site as soon as the information is available. If course information changes at any time before the conclusion of the semester, the institution must update its web site to reflect the change(s). This information must be posted before enrollment begins for the first academic term starting on or after August 1, 2008, and every academic term thereafter.

(3) Where feasible, each institution shall post on its web site instructor ratings by students, except that no institution shall be required to post any item the publication of which would constitute a violation of state or federal law.

(A) The ratings must include:

1. The most recent ratings available; or

2. A faculty member's ratings for multiple academic terms, whether data for each term are presented separately or in aggregate form, so long as the ratings posted include the most recent ratings available.

(B) Each institution may determine whether to post each faculty member's ratings:

1. As an aggregate representing ratings received for all courses taught by that faculty member; or

2. For each individual course taught by the faculty member.

(C) Institutions need not post ratings of faculty members who are teaching for the first time at the institution if no such ratings exist.

(D) If an institution decides to post ratings for each individual course taught by the faculty member and a faculty member is teaching a course for the first time, the institution need not post ratings for that course if no such ratings exist.

(E) This information must be posted at least ten (10) calendar days before the first day that any student may enroll for the next academic term, starting with the first academic term starting on or after August 1, 2009, and every academic term thereafter.

(F) If the Missouri Department of Higher Education (department) determines that the ratings posted by an institution do not provide sufficient information, that institution shall work cooperatively with the department to develop ratings that do provide information the department deems sufficient.

(G) Ratings must be posted on a portion of the institution's web site that may be viewed by currently enrolled students and by all new students participating in the enrollment process at the institution.

AUTHORITY: section 173.1004, (SB 389, 94th General Assembly, First Regular Session (2007)). Original rule filed Oct. 25, 2007.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions nine hundred forty-two thousand six hundred twenty-two dollars ($942,622) to implement in the aggregate in the first year. This estimate of fiscal impact is based on information provided by representatives of several public institutions of higher education. Several public institutions of higher education did not respond to the MDHE's request for an estimate of fiscal impact. Those institutions are not included on the table below. They will, however, likely be fiscally impacted as a result of this new regulation.

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, 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.*

FISCAL NOTE
PUBLIC COST

I. Department Title: Missouri Department of Higher Education
Division Title: Commissioner of Higher Education
Chapter Title: Consumer Information

Rule Number and Name:	6 CSR 10-9.010 Rules for the Posting of Consumer Information
Type of Rulemaking:	Proposed rule

II. SUMMARY OF FISCAL IMPACT

The following estimates of fiscal impact were provided by representatives of each institution listed. Several public institutions of higher education did not respond to the MDHE's request for an estimate of fiscal impact. Those institutions are not included on the table below. They will, however, likely be fiscally impacted as a result of this new regulation.

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate		
	FY 08	FY 09	FY 10
Crowder College	**$29,315**	**$9,315**	**$9,315**
East Central College	**$2,500**	**$1,000**	**$1,000**
Lincoln University	**$20,750**	**$34,500**	**$35,000**
Linn State Technical College	**$48,000**	**$76,200**	**$79,112**
Mineral Area Community College	**$5,000**	**$0**	**$0**
Missouri State University	**$58,520**	**$60,861**	**$63,295**
Missouri Western State University	**$45,000**	**$35,000**	**$36,000**
Moberly Area Community College	**$18,405**	**$9,000**	**$8,000**
North Central Missouri College	**$30,000**	**$0**	**$0**
Northwest Missouri State University	**$117,000**	**$60,840**	**$63,270**
Ozarks Technical College	**$16,250**	**$4,000**	**$5,000**
Southeast Missouri State University	**$37,000**	**$32,000**	**$32,000**
St. Charles Community College	**$31,682**	**$23,800**	**$19,200**
St. Louis Community College	**$25,000**	**$25,000**	**$25,000**
Three Rivers Community College	**$200**	**$200**	**$200**
Truman State University	**$0**	**$0**	**$0**
University of Missouri (all campuses)	**$458,000**	**$342,000**	**$342,000**

TOTAL IMPACT	**$942,622.00**	**$713,716.00**	**$718,392.00**

III. WORKSHEET

The following estimates of fiscal impact were provided by representatives of each institution listed. Several pubic institutions of higher education did not respond to the MDHE's request for an estimate of fiscal impact. Those institutions are not included on the narrative below. They will, however, likely be fiscally impacted as a result of this new regulation.

Crowder College

Approximately $20,000 in the first year to develop a database of faculty evaluations that posts to the web. In addition, $9,315 each year for additional salary and supplies. ($4,140 for administrative staff to administer evaluations for all sections; $3,000 for additional materials necessary to evaluate all courses; $1,725 for salary to put paper evaluations into electronic form.)

East Central College

FY 08: $1,500 for web design services. $1,000 for data collection and programming.

FY 09: $1,000 for data collection and programming.

FY 10: $1,000 for data collection and programming.

Lincoln University

FY 08: $16,250 for personnel (1 FTE to assist with development, administration, and analysis of rating instrument); $4,000 for computer equipment/software; $500 for supplies.

FY 09: $32,500 for personnel; $1,000 for computer equipment/software; $1,000 for supplies (includes initial purchase and maintenance in subsequent years).

FY 10: $32,500 for personnel; $1,000 for computer equipment/software; $1,500 for supplies (paper and computerized forms).

Linn State Technical College

FY 08: $35,000 for salary + fringe; $1,000 for supplies; $500 for travel; $4,500 for software; $7,000 for hardware.

FY 09: $72,800 for salary + fringe; $1,000 for supplies; $1,000 for travel; $800 for software; $600 for hardware.

FY 10: $75,712 for salary + fringe; $1,000 for supplies; $1,000 for travel; $800 for software; $600 for hardware.

Mineral Area Community College

Mineral Area provided estimates for the implementation of two alternative plans for compliance with these regulations. The first estimate is based on compliance using paper surveys; the second is based on compliance using online software. Only the online software estimate was used in the table above; both are set forth here.

Paper surveys: FY 08: $0. FY 09: $900 for supplies; $2,500 for tabulation. FY 10: $930 for supplies; $2,575 for tabulation.

Online software: FY 08: $5,000 upgrade costs. FY 09: $0. FY 10: $0.

Missouri State University

For each year, 1 FTE to accumulate data required plus 10-25% of an FTE for web services. FY 08: $58,520 for salary + fringe. FY 09: $60,861 for salary + fringe. FY 10: $63,295 for salary + fringe.

Missouri Western State University

FY 08: $45,000 for salary + fringe. FY 09: $35,000 for salary + fringe. FY 10: $36,000 for salary + fringe.

Moberly Area Community College

FY 08: $18,405 for staffing, software, hardware, and programming. FY 09: $9,000 for staffing, software, hardware, and programming. FY 10: $8,000 for staffing, software, hardware, and programming.

North Central Missouri College

FY 08: $30,000 for programming and staff.

Northwest Missouri State University

FY 08: $117,000 for two FTE web and database programming staff. FY 09: $60,840 for web and database maintenance staff. FY 10: $63,270 for web and database maintenance staff.

Ozarks Technical College

FY 08: $15,000 for purchase and implementation of software, plus customization of database and web programming; $1,250 to process student survey raw data collection to electronic form. FY 09: $2,500 for annual software license/maintenance costs; $1,500 for annual increases due to enrollment growth, inflation costs, etc. FY 10: $3,000 for annual software license/maintenance costs; $2,000 for annual increases due to enrollment growth, inflation costs, etc.

Southeast Missouri State University

The posting of faculty information will have no fiscal impact as the University already posts such information on its website. The one-time cost of programming to automate downloading of faculty evaluation information is approximately $5,000. The annual cost of complying with the portion of the regulations addressing faculty evaluations will be approximately $32,000.

St. Charles Community College

FY 08: *For posting faculty credentials*: $2,782 for staff time for human resources; $4,025 for staff time for IT programming; $3,890 for staff time for web specialist; $2,240 for clerical staff in academic affairs. *For posting instructor ratings by students*: $4,960 for academic affairs investigation (160 hours x $25/hour + fringe); $7,000 for IT programming time; $5,000 for IT implementation; $1,785 for maintenance of data files (3 times per year x 24 hours x $20/hour + fringe).

FY 09: $23,800.

FY 10: $19,200.

St. Louis Community College

Most costs will be absorbed into normal processes. The College will, however, have to have student evaluation sheets scanned by an outside company. Scans cost 30 cents per sheet. The College estimates that it will have to scan approximately 75,000 sheets each year. Forms will cost approximately $2,500 per year. The estimated total additional cost is estimated at $25,000 per year.

Three Rivers Community College

College staff estimate the cost of administering the new rules at $200 each year or more.

Truman State University

The implementation of these regulations will place an additional burden on the University's Provost Office. However, because software that contains faculty credentials and teaching assignments is already in place, the primary task will be maintaining and updating the file. The University will incur some additional costs setting up access to the data, but there will be no significant ongoing costs that have currently been identified.

University of Missouri System

FY 08: $458,000 for programming, technology hardware, and staffing. FY 09: $342,000 for continued staffing and technology maintenance. FY 10: $342,000 for continued staffing and technology maintenance.

IV. ASSUMPTIONS

The assumptions relied on in making these assessments are outlined above.

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

PROPOSED AMENDMENT

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

PURPOSE: Under the Annual Adjusted Rate of Interest (section 32.065, RSMo), this amendment establishes the 2008 annual adjusted rate of interest to be implemented and applied on taxes remaining unpaid during calendar year 2008.

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

Calendar Year	Rate of Interest on Unpaid Amounts of Taxes
1995	12%
1996	9%
1997	8%
1998	9%
1999	8%
2000	8%
2001	10%
2002	6%
2003	5%
2004	4%
2005	5%
2006	7%
2007	8%
2008	**8%**

AUTHORITY: section 32.065, RSMo 2000. Emergency rule filed Oct. 13, 1982, effective Oct. 23, 1982, expired Feb. 19, 1983. Original rule filed Nov. 5, 1982, effective Feb. 11, 1983. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Oct. 16, 2007, effective Jan. 1, 2008, expires June 28, 2008. Amended: Filed Oct. 16, 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate. This proposed amendment will not result in an increase in the interest rate charged on delinquent taxes.

PRIVATE COST: This proposed amendment will cost private entities more than five hundred dollars ($500) in the aggregate. This proposed amendment will not result in an increase in the interest rate charged on delinquent taxes. The actual number of affected taxpayers is unknown. See detailed fiscal note for further explanation.

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

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-41.010 Annual Adjusted Rate of Interest
Type of Rulemaking:	Proposed Amendment -- 2008

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule	**Classification by types of the business entities which would likely be affected:**	**Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:**
Any taxpayer with past due tax amounts.	Any taxpayer with past due tax amounts.	Because the amount of interest collected on past due amounts of taxes will be at the same rate, the aggregate impact on private entities will be less than $500. The future amount of past due taxes is unknown, however, the gross amount of delinquent taxes as of June 30, 2007, was $826,293,302. There is no change in interest on that amount as a result of the proposed amendment. The precise dollar impact on private entities is also unknown.

III. WORKSHEET

The future amount of past due taxes is unknown. The gross amount of delinquent taxes as of June 30, 2007, was $826,293,302. There is a 0% interest increase on that amount and as a result of the proposed amendment there is no additional private cost. Following is a comparison for the cost to a taxpayer with a past due amount of $100:

	Current Rule – 8%	Proposed Amendment – 8%
Past due tax amount	$100.00	$100.00
Interest amount	8.00	8.00
Total Amount Due	$108.00	$108.00

IV. ASSUMPTIONS

Pursuant to Section 32.065, RSMo, the director of revenue is mandated to establish an annual adjusted rate of interest based upon the adjusted prime rate charged by banks during September of that year as set by the Board of Governors of the Federal Reserve rounded to the nearest full percent. Because the future amount of past due taxes is unknown, the precise dollar impact on private entities is also unknown, however, for interest accrued on tax amounts owed as of or after the effective date of this rule, the costs to the private entity will remain unchanged.