Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.010 Types of Licenses. The commission is amending section (1).

PURPOSE: This amendment clarifies the types of licenses.

(1) The types of licenses shall include:
(A) Class A *[license]*;
(B) *[Supplier's license, temporary supplier's license and affiliate supplier's license; and]* **Class B;**
(C) *Occupational license, Level One (I) or Two (II).]* **) Key person/key person business entity;**
(D) Occupational:
1. Level I;
2. Level II; and
(E) Supplier, temporary supplier and affiliate supplier.

*AUTHORITY: sections 313.004[, RSMo 1994] and 313.807, RSMo [Supp. 1997] **2000**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED RESCISSION

11 CSR 45-4.020 Class A License Defined. This rule defined types of licenses.

PURPOSE: This rule is being rescinded and readopted to clarify the requirements for licenses.

AUTHORITY: sections 313.004, RSMo 1994 and 313.807, RSMo Supp. 1997. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed June 2, 1995, effective Dec. 30, 1995. Amended: Filed Dec. 28, 1995, effective June 30, 1996. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Rescinded: Filed Dec. 3, 2007.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED RULE

11 CSR 45-4.020 Licenses, Restrictions on Licenses, Licensing Authority of the Executive Director and Other Definitions

PURPOSE: This rule defines and describes types of licenses, restrictions on licenses, licensing authority of the executive director and other definitions.

(1) A Class A license shall be a license granted by the commission to allow the parent organization(s) or controlling entity, as determined by the executive director, to develop and operate Class B licensee(s). A Class A licensee may, if authorized by the commission, operate more than one Class B licensee. Class A and Class B licensees may not be licensed as suppliers.

(2) A Class B license shall be a license granted by the commission to maintain, conduct gambling games on, and operate an excursion gambling boat and gaming facility at a specific location.

(3) A key person/key person business entity license shall include:
(A) An officer, director, trustee, proprietor, managing agent, or general manager of an applicant or licensee or of a business entity key person of an applicant or licensee;
(B) A holder of any direct or indirect legal or beneficial publicly traded interest whose combined direct, indirect or attributed publicly traded interest is five percent (5%) or more in an applicant or licensee or in a business entity key person of an applicant or licensee except a holder of more than five percent (5%) but not more than ten percent (10%) interest who holds such interest only for passive ("Not involving active participation; esp., of or relating to a business enterprise in which an investor does not have immediate control over the activity that produces income." *Black's Law Dictionary* Seventh Edition) investment purposes (including economic purposes) may be exempted from licensure by the executive director;
(C) A holder of any direct or indirect legal or beneficial privately held interest whose combined direct, indirect or attributed privately held interest is one percent (1%) or more in an applicant or licensee or in a business entity key person of an applicant or licensee except a holder of more than one percent (1%) but not more than ten percent (10%) interest who holds such interest only for passive investment purposes (including economic purposes) may be exempted from licensure by the executive director;
(D) A holder of any direct or indirect legal or beneficial interest in an applicant or licensee or in a business entity key person of an

applicant or licensee if the interest was required to be issued under agreement with or authority of a government entity;

(E) An owner of an excursion gambling boat; and

(F) Any individual or business entity so designated by the commission or the executive director.

(4) Occupational license Level I is a person other than a key person/key person business entity who has management control or decision-making authority over the gaming operation, a key function of the gaming operation, or the development or oversight of the testing of gaming equipment or systems, including but not limited to:

(A) Internal audit manager;

(B) Director of casino operations;

(C) Table games manager;

(D) Director of security;

(E) Controller;

(F) IT manager;

(G) Surveillance manager;

(H) Assistant general manager;

(I) Slot department manager;

(J) Managers responsible for ensuring the integrity of all testing standards and certifications; or

(K) Any other person directed by the commission to file a Level I application.

(5) Occupational license Level II is any person not a key or Level I who has access to the gaming floor, or secured areas, as an employee of any Class A, Class B, or Supplier licensee, and any other person directed by the commission or the executive director to file a Level II application.

(6) Secured areas shall include any area or location where gaming functions may take place, be controlled or affected. Secured areas shall also include any area so designated by the licensees Internal Control System (ICS) or by the commission, including but not limited to:

(A) Security;

(B) Surveillance;

(C) Audit;

(D) Accounting;

(E) Management Information Systems (MIS);

(F) Cage;

(G) Ticketing;

(H) Hard and soft count;

(I) Marine operations; and

(J) Any other area designated by the commission; and also

(K) Licensees may in their ICS request authorization for certain Level I licensees, key person licensees and others escorted by security or the area supervisor, to have access to secured areas other than the surveillance area.

(7) Supplier license is a license issued to a person or entity that—

(A) Manufactures, sells or leases gaming equipment, gaming supplies, or both;

(B) Provides gaming equipment maintenance or repair; or

(C) Provides testing services on gaming related equipment, components, peripherals or systems or other items directed by the commission to a Class A or Class B licensee or the commission; or

(D) Provides services on behalf of a Class A or Class B licensee on the gaming floor that relate to gaming equipment or whose primary function is providing a direct service to patrons, unless exempted by the director and affirmed by the chairman.

(8) Temporary supplier license is a license authorized by the commission until the appropriate license can be obtained.

(9) Affiliate supplier license is required of any person who is an affiliate of a Class A or Class B licensee or a key person/key person business entity of a Class A licensee and sells or leases gambling equipment, gambling supplies or both to its Class B licensee affiliate. For purposes of 11 CSR 45-4.205, an "affiliate" of, or a person "affiliated" with, a specific person is a person that directly or indirectly, through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(10) Upon the effective date of this rule, all existing Class A licenses shall be divided into a Class A license, which shall be the operating company and one or more Class B license(s), which shall be the licensed riverboat gaming operation. Rules adopted prior to the adoption of this rule which previously referred to a Class A licensee shall refer to both Class A licensee and Class B licensee unless specifically identified otherwise.

AUTHORITY: sections 313.004 and 313.807, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed June 2, 1995, effective Dec. 30, 1995. Amended: Filed Dec. 28, 1995, effective June 30, 1996. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Rescinded and readopted: Filed Dec. 3, 2007.

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

PRIVATE COST: This proposed rule will cost private entities $3,346,000 annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PRIVATE COST

I. Department Title: 11--DEPARTMENT OF PUBLIC SAFETY
Division Title: 45--Missouri Gaming Commission
Chapter Title: 4--Licenses

Rule Number and Title:	11 CSR 45-4.020 Class A Licenses, Restrictions on Licenses, Licensing Authority of the Executive Director and Other Definitions (Defined)
Type of Rulemaking:	Regulatory, Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Annual Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
(1) & (2) There are 6 gaming companies in Mo.	There will be six (6) Class A license holders in Mo.	No change, no cost.
(1) & (2) There are 12 Class B license holders in Mo.	There will be 13 Class B license holders	No change, no cost.
(3) (A) There are 105 Key person/key person business entitities in Mo. This number will increase by approximately six (6) key person business entities; and twelve (12) key persons to include manufacturers and gaming laboratories.	There will be an increase in gaming companies required to be licensed as Key Person Business Entity/Key Persons due to the increase of approximately four (4) manufacturers, and two (2) laboratories. Each will have 2 key persons for a total of 12 new key persons.	GRAND TOTAL = $1,845,000
(3) (B), (C), (D), (E), & (F) Provides an exemption from registration for "passive"- e.g. institutional investors.	Does not impact current gaming companies in Mo.	Future number indeterminate due to the nature of the exemption.
(4) (A-J) There are 132 Level I gaming licenses in Mo currently.	It is estimated that there will be an increase of 68 Level I licensees, for a total of 192 Level I gaming licenses	GRAND TOTAL= $200,000
(5) & (6) (A)-(J) There are 10,862 Level II gaming licenses in Mo. currently.	It is estimated that Level II licenses will increase by three (3) for each class (A)-(J) for each of the four (4) new manufacturers and two (2) new laboratories, resulting in 18 new Level II licensees for a total of 10,880.	GRAND TOTAL = $816,000
(7) Currently there are 14 suppliers licensed in Mo.	It is estimated that there will be four (4) manufacturer and two (2) laboratories in this class for a new total of 20 suppliers.	GRAND TOTAL = $200,000
(8) Currently there are four (4) temporary supplier licenses.	It is estimated that there will be a total of 4 temporary licenses.	GRAND TOTAL = $40,000

(9) Currently there are 223 supplier individuals that will qualify as an affiliate supplier licensee.	It is estimated that there will be 223 supplier affiliate licenses.	GRAND TOTAL = $245,000

III. WORKSHEET

(3) (A)

NEW KEY PERSON/KEY PERSON BUSINESS ENTITY COSTS:

4 Manufacturers	@	$15,000	=	$ 60,000
2 Laboratories	@	$15,000	=	$ 30,000
12 Key Persons	@	$15,000	=	$ 180,000
	TOTAL			$ 270,000

CURRENT KEY PERSON/KEY PERSON BUSINESS ENTITY COSTS

105 Key Persons/Key Business Entities	@	$15,000	=	$1,575,000
	TOTAL			$1,575,000
	GRAND TOTAL		=	$1,845,000

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(4) (A) - (J) NEW LEVEL I LICENSEES:

68 Level I	@	$1,000	=	$ 68,000
	TOTAL			$ 68,000

CURRENT LEVEL I LICENSEES:

132 Level I	@	$1,000	=	$132,000
	TOTAL			$132,000
	GRAND TOTAL		=	$200,000

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(5) (A)-(J) NEW LEVEL II LICENSEES:

18 Level II Licenses	@	$75	=	$1,350
	TOTAL			$1,350

CURRENT LEVEL II LICENSEES:

10,862 Level II Licenses	@	$75	=	$814,650
	TOTAL			$814,650
	GRAND TOTAL		=	$816,000

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(1)

NEW SUPPLIERS:

6 Suppliers	@	$10,000	=	$ 60,000
	TOTAL			$ 60,000

CURRENT SUPPLIERS:

14 Suppliers	@	$10,000	=	$140,000
	TOTAL			$140,000
	GRAND TOTAL		=	$200,000

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(8)

TEMPORARY LICENSES:

4 Temporary Licenses	@	$10,000	=	$40,000
	GRAND TOTAL		=	$40,000

(9)

NEW AFFILIATE LICENSES

223 affiliate licenses	@	$1,100	=	$245,000
	GRAND TOTAL		=	$245,000

IV. ASSUMPTIONS

(3) (A)
There will be an increase in gaming companies required to be licensed as key person business entity/key persons due to the increase of approximately four (4) manufacturers, and two (2) laboratories. Each will have 2 key persons for a total of 12 new key persons. The addition will result in a total of 123 key person business entitities/key persons.

(4) (A)-(J)
It is estimated that there will be an increase of 68 Level I licensees, for a total of 192 Level I gaming licenses.

(5) (A)-(J)
It is estimated that Level II licenses will increase by three (3) for each class (A)-(J) for each of the four (4) new manufacturers and two (2) new laboratories, resulting in 18 new Level II licensees for a total of 10,880 at a cost of $75 per license.

(8)
It is estimated that there will be a total of 4 temporary licenses at a cost of $10,000 per license.

(7)
It is estimated that there will be four (4) manufacturer and two (2) laboratories in this class for a new total of 20 suppliers at a cost of $10,000 per license.

(9)
It is estimated that there will be 223 supplier affiliate licenses at a cost of $1,100 per license.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.030 Application for Class A *or Class B* License. The commission is amending the title and sections (1)–(3), (7) and (11)–(18).

PURPOSE: This amendment updates application requirements.

(1) License application shall be made on a form obtained from the commission. Each Class A **or Class B** license applicant must submit the Riverboat Gaming Application Form for itself, *[a Riverboat Gaming Application Form I]* **a key person/key person business entity and Level I application** for each individual key person associated with the application and a Riverboat Gaming Application Form for each business entity key person associated with the applicant. The applicant must also submit *[Riverboat Gaming Application Form I or Form II]* **Personal Disclosure Form II** for any other person or entity (other than occupational licensees) associated with the applicant in any way, who is required by the commission or the director to execute such forms, which forms shall become part of the Class A *[applicant's]* **or Class B** application along with the key person/**key person business entity** forms. A copy of all necessary forms is available for public inspection at the offices of the commission **and online at the commission's web site**.

(2) For a Class A **or Class B** license an applicant must disclose on an application form obtained from the commission at a minimum—

(A) The applicant's full name, telephone number and the type of organizational structure under which the organization operates, including, without limitation, whether the applicant is an operating company or a holding company, identification of key persons/**key person business entities**, including identification of chief administrative officers, the background and skills of applicant and key persons;

(D) Information on the ability of applicant and key persons/**key person business entities** to conduct gaming operations;

(F) If the applicant is a corporation, the applicant must disclose on the application—

1. The applicant's full corporate name and any trade names or fictitious names used by the applicant in this or any other jurisdiction;

2. The jurisdiction and date of incorporation;

3. The date the applicant commenced doing business in Missouri, if any, and if the applicant is incorporated in any jurisdiction other than Missouri, a copy of the applicant's certificate or authority to do business in Missouri;

4. Copies of each of the following:

A. Articles of Incorporation;

B. Bylaws and all bylaw amendments;

C. Federal corporate tax returns for the past five (5) years;

D. State corporate tax returns for the past five (5) years; and

E. The applicant's most current annual report, which shall include audited financial statements;

5. To the extent not disclosed in any document required to be submitted, the applicant's Federal Employer Identification Number (FEIN), and all tax identification numbers including, without limitation: sales tax number, employer withholding tax number and corporate income tax number;

6. The location and custodian of the applicant's business records;

7. A statement of the general nature of applicant's business;

8. Whether the applicant is publicly held as defined by the rules of the Securities and Exchange Commission;

9. All the classes of stock authorized by the Articles of Incorporation. As to each class, the applicant shall disclose—

A. The number of shares authorized;

B. The number of shares issued;

C. The number of shares outstanding;

D. The par value of each share;

E. The issue price of each share;

F. The current market price of each share;

G. The number of shareholders currently listed on the corporate books; and

H. The terms, rights, privileges and other information each class of stock possesses;

10. If the applicant has any other obligations or securities authorized or outstanding which bear voting rights either absolutely or upon any contingency, together with the nature of the obligations. In addition, the following shall be disclosed for each obligation:

A. The face or par value;

B. The number of units authorized;

C. The number of units outstanding; and

D. Any conditions upon which the units may be voted;

11. The names in alphabetical order and addresses of the directors. As to each director, the following information shall be included: the number of shares held of record as of the application date—

A. If the director owns no shares, the application shall so state; and

B. Ownership of shares shall include beneficial owners *[as that term is defined in section 313.600.4, RSMo;]* **of the stocks or certificates or other evidence of ownership in such organization, may become the owner or holder, directly or indirectly, of any such shares of stocks or certificates or other evidence of ownership;**

12. The names, in alphabetical order, and addresses of the officers of the applicant. The following information shall be included for each officer: the number of shares held on record as of the application date—

A. If the officer owns no shares, the application shall so state; and

B. Ownership of shares shall include beneficial owners *[as that term is defined in section 313.600.4, RSMo;]***. Beneficial ownership includes, but is not limited to, record ownership and:**

(I) Stock or other ownership in one (1) or more entities in a chain of parent and subsidiary or affiliated entities, any one (1) of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved; or

(II) Any interest which entitles a person to benefits substantially equivalent to ownership by reason of any contract, understanding, relationship, agreement or other arrangement even though the person is not the record owner. Unless there are special circumstances, securities held by an individual's spouse or relatives, including children, living in the home, who are beneficially owned by the individual;

13. The names, in alphabetical order, and addresses of each record stockholder of the corporation. Stockholder shall mean record owners *[as defined in section 313.600.1, RSMo]* **or beneficial owners (as defined in (2)(F)12.B. above) of the stocks or certificates or other evidence of ownership in such organization, may become the owner or holder, directly or indirectly, of any such shares of stocks or certificates or other evidence of ownership**. The applicant shall also include a percentage of the voting shares of stock owned by each record stockholder. If the applicant is publicly held and shares of stock are held in street name by a nominee, an agent or trust, the applicant shall render maximum assistance to the commission, upon its request, to determine the beneficial ownership of the shares of stock;

14. Each jurisdiction for which the corporation has met filing and disclosure requirements of state securities registration and filing laws, the Securities Act of 1933 or the Securities and Exchange Act of 1934. The applicant shall include the most recent registration statement and annual report filed with the Securities and Exchange

Commission and each state in which the corporation has registered or filed the report.

A. If the applicant has not registered or filed any statements with the Commissioner of Securities of the Secretary of State of Missouri, the applicant must state the reason the filing has not been made, including specific reference to the exemption or exception upon which the applicant relies for not filing with the Commissioner of Securities of the Secretary of State of Missouri; and

B. If the applicant has filed with the Commissioner of Securities of the Secretary of State of Missouri, copies of all filings beginning with the most recent, up to and including the first statement filed or for the past five (5) years, whichever is shorter, shall be included with the application;

15. The name and address of any previous owners (within five (5) years) of the applicant, together with the previous owner's FEIN and all applicable tax numbers; and

16. All documents concerning transfer of ownership (within five (5) years), a list of assets, the purchase price, the date of purchase and any agreements for the purchase of assets by and between the applicant and any previous owner or successor;

(G) If the applicant is an organization other than a corporation, the following information must be disclosed:

1. The applicant's full name including any trade names or fictitious names currently in use by the applicant in Missouri or any other jurisdiction;

2. The jurisdiction in which the applicant is organized;

3. Copies of any written agreement, constitution or other document creating or governing the applicant's organization, powers of organization;

4. The date the applicant commenced doing business in Missouri—

A. If the applicant is organized under laws other than Missouri law, a copy of the authorization of the state of Missouri to do business in Missouri; and

B. If no authorization to do business in Missouri has been obtained, the applicant must state the reason the authorization has not been obtained;

5. The applicant's federal and state tax returns for the past five (5) years;

6. The general nature of the applicant's business;

7. The names, in alphabetical order, and addresses of each partner, officer or other person having or sharing policy-making authority. As to each such person, the applicant must disclose the nature and extent of any ownership interest.

A. Ownership interest shall include any beneficial owner *[which is covered by section 313.600.4, RSMo]*. **Beneficial ownership includes, but is not limited to, record ownership and:**

(I) Stock or other ownership in one (1) or more entities in a chain of parent and subsidiary or affiliated entities, any one (1) of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved; or

(II) Any interest which entitles a person to benefits substantially equivalent to ownership by reason of any contract, understanding, relationship, agreement or other arrangement even though the person is not the record owner. Unless there are special circumstances, securities held by an individual's spouse or relatives, including children, living in the home, who are beneficially owned by the individual.

B. Any voting interest, whether absolute or contingent, and the terms upon which the interest may be voted;

8. The names, in alphabetical order, and addresses of any individual or other entity who holds a record or beneficial ownership *[as defined in section 313.600.4, RSMo in the application]*. **Beneficial ownership includes, but is not limited to, record ownership and: 1) Stock or other ownership in one (1) or more entities in a chain of parent and subsidiary or affiliated entities, any one (1) of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved; or 2) Any interest which entitles a person to benefits substantially equivalent to ownership by reason of any contract, understanding, relationship, agreement or other arrangement even though the person is not the record owner. Unless there are special circumstances, securities held by an individual's spouse or relatives, including children, living in the home, who are beneficially owned by the individual.** The following information shall be given concerning each individual:

A. The nature of the ownership interest;

B. Whether the ownership interest carries a vote and the terms upon which the interest may be voted; and

C. The percentage of ownership;

(K) Whether applicant or parent company, if applicant is a subsidiary, or any key person/**key person business entity** currently holds or has ever held a license or permit issued by a governmental authority to own or operate a gaming facility or conduct any aspect of gambling. If the applicant, parent company or key person/**key person business entity** has held or holds a license or permit, the following must be disclosed:

1. The identity of the license or permit holder;
2. The jurisdiction issuing the license or permit;
3. The nature of the license or permit; and
4. The dates of issuance and termination, if any;

(L) Whether any person currently serving, or any person who has within the past two (2) years served, as a member of the commission, an employee of the commission, a member of the general assembly, or as a Missouri elected official, or if any city or county in Missouri in which licensing of excursion gambling boats has been approved, has any ownership interest in applicant;

(O) The applicant shall provide a detailed itemized summary of all income received and expenses incurred relating to the preparation of the application for a Class A *[license]* or Class B license. The summary shall include the source of income and the amount paid, the recipient and a brief description of goods or services purchased. The summary shall be updated by the applicant periodically throughout the application process.

(3) If the *[applicant,]* **"**applicant**"** as used in this rule shall include the controlling individual or entity, is directly or indirectly controlled by another individual or entity, the applicant must disclose with respect to applicant and all key persons—

(C) Whether any individual or entity has **ever applied for, withdrawn,** had a gambling, or other business or professional license or permit revoked, suspended, restricted, denied or the renewal of the license denied, or has been a party in any proceeding to do so. If any applicant or entity has been involved in a proceeding, the applicant must disclose—

1. The licensing authority;
2. The date of commencement;
3. The circumstances;
4. The date of decision; and
5. The result;

(7) An applicant for a Class A **or Class B** license must disclose all financial interests that any officer, director or significant shareholder (defined as having an ownership interest in the applicant of five percent (5%) or more) has in any entity involved in gambling. The financial interests shall include all direct and indirect interests.

(11) If the *[applicant,]* **"**applicant**"** as used in this rule shall include the controlling individual or entity, is directly or indirectly controlled by another individual or entity, an applicant for a Class A **or Class B** license must disclose the following with regard to financial resources:

(D) An applicant for a Class A **or Class B** license *[or]* must disclose the following with regard to bank accounts:

1. The name and address of all banking institutions or depositories holding funds of the applicant;
2. Corresponding account numbers for each account;
3. The name and address of the responsible bank officer; and

4. All authorized signatures for the deposit and withdrawal of funds.

(12) The applicant for a Class A **or Class B** license must disclose its financial projections for the developmental period and for the first two (2) years of the conducting of excursions, including all related assumptions and anticipated impact of competition from other riverboats licensed in Missouri and other neighboring states.

(13) The applicant for a Class A **or Class B** license must disclose any lease with a home dock city or county.

(14) The applicant for a Class A **or Class B** license must disclose any resolution adopted by the city or county where operations will be located, supporting the docking and land-based economic development or impact plan of the applicant.

(15) An applicant for a Class A **or Class B** license must disclose with regard to governmental agencies—

(16) An applicant for a Class A **or Class B** license must disclose each of the following for the development and ownership of the proposed facility:

(17) An applicant for a Class A **or Class B** license must disclose the impact of its gambling facility including:

(18) An applicant for a Class A **or Class B** license must disclose public support and opposition, whether by governmental officials or agencies, private individuals or groups and must supply documentation for the support or opposition.

AUTHORITY: sections 313.004, 313.805 and 313.807, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Dec. 3, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.040 City or County Input. The commission is amending sections (1) and (2).

PURPOSE: This amendment adds Class B license requirements.

(1) Before the commission considers an application for a Class A **or Class B** license to operate in a given city or county, the city or county shall submit a plan outlining the following:

(2) Upon receipt of the initial application seeking a Class A **or Class B** license **or both licenses** to operate in a given city or county, the commission will notify the home dock city or county and the applicant must file a copy of the application's public information with that city or county.

*AUTHORITY: sections 313.004 and 313.805, RSMo [Supp. 1993] **2000**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 3, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED RESCISSION

11 CSR 45-4.050 Application Period and Fees for Class A License. This rule established an application period and fees.

PURPOSE: This rule is being rescinded and readopted to clarify requirements for Class A and Class B licenses.

AUTHORITY: sections 313.004 and 313.812, RSMo 1994. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed Dec. 3, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED RULE

11 CSR 45-4.050 Application Period and Fees for Class A and Class B Licenses

PURPOSE: This rule establishes an application period and fees.

(1) The one (1)-time nonrefundable application fee for a Class A license shall be the greater of a) fifty thousand dollars ($50,000) or b) fifteen thousand dollars ($15,000) per key person/key person business entity not licensed as a key person/key person business entity or under investigation for a license as a key person/key person business entity at the time of application, or a greater amount as determined by the commission. The applicant or licensee shall be assessed fees, if any, to cover additional cost of the investigation.

(2) The one (1)-time nonrefundable application fee for a Class B license shall be fifty thousand dollars ($50,000), except that any applicant for a Class A license shall be entitled to one (1) Class B license with no additional fees other than fees required to cover any additional costs of the investigation, if the Class B application is submitted simultaneously with the Class A application. The applicant or licensee shall be assessed fees, if any, to cover additional cost of the investigation.

(3) For any Class A or Class B applicant that has not been selected for priority investigation or had other affirmative action taken on their application within one (1) year, the application shall lapse and consideration for either a Class A or Class B license in the future shall require submittal of a new application and fee.

(3) The annual fee for a Class A license and a Class B license shall be twenty-five thousand dollars ($25,000) each, except each Class A licensee shall be entitled to one (1) Class B license at no additional fee, and is due upon issuance of the initial license and thereafter is due upon the application for renewal of the license. When licenses are renewed for multiple years, fees for all licensed years shall be paid with the application. The Class A and all Class B licenses owned by the same Class A license shall renew all licenses within the same month, after the second year. The commission may adjust renewal dates of the Class A and Class B licenses so as not to consume commission resources in any particular month. Any such adjustments shall result in a pro rata adjustment of fees. This fee is nonrefundable and is due regardless of whether the renewal applicant obtains a renewed license. The applicant or licensee shall be assessed fees, if any, to cover additional cost of the investigation.

(4) Any holder of a Class A license, at the time these rules become effective, shall without further investigation or fees be granted a Class A and Class B license consistent with these rules. The renewal dates for Class A and Class B licenses issued under this rule shall remain the original anniversary dates as existed prior to the adoption of this rule.

(5) A Class A license is not transferable except by change of control as provided in Chapter 11 CSR 45-10.

(6) A Class B license is transferable to a Class A licensee with prior approval of the commission as provided in Chapter 11 CSR 45-10.

AUTHORITY: sections 313.004 and 313.812, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the ***Code of State Regulations****. Rescinded and readopted: Filed Dec. 3, 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 a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.070 Competitiveness Standards. The commission is amending section (1).

PURPOSE: This amendment determines the number and location of gaming boats that will best serve the interest of Missouri.

(1) The commission will determine the number, location, and type of excursion gambling boat allowed each **Class A** licensee. The determination shall be based on the best interest of the state of Missouri.

AUTHORITY: sections 313.004 and 313.800–313.850, RSMo 2000 and Supp. ***[1993] 2006****. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 3, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.080 License Criteria. The commission is amending sections (1) and (2).

PURPOSE: This amendment establishes license criteria for a Class A or Class B license.

(1) The commission may issue a Class A **or Class B** license **or both** if it determines on the basis of all the facts before it that the applicant meets the criteria contained in Chapter 313, RSMo.

(2) In making the required determinations, the commission may consider the following factors and indices, among others:

(A) The integrity of the applicant and any personnel employed to have duties and responsibilities for the operation of gaming. This determination shall include consideration of—

1. Any criminal record **including any federal, state, county, city violations to include ordinance violation(s)** of any individual;
2. The involvement in litigation over business practices by the applicant or any individuals or entities employed by the applicant;
3. The involvement in proceedings in which unfair labor practices, discrimination or regulation of gambling was an issue; and
4. Failure to satisfy any judgments, orders or decrees of any court;

*AUTHORITY: sections 313.004 and 313.805, RSMo [1994] **2000**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED RULE

11 CSR 45-4.085 Expiration of Temporary License

PURPOSE: This rule establishes a time frame for the automatic expiration of temporary licenses.

(1) All temporary licenses shall expire sixty (60) days from the date the completed background investigation is received by the commission, unless extended by the executive director for up to an additional sixty (60) days, any extension beyond that would require the approval of the chairman.

AUTHORITY: section 313.807, RSMo 2000. Original rule filed Dec. 3, 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 a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.190 License Renewal. The commission is amending section (1), adding section (2) and deleting the Appendix that follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment establishes license renewal procedures and clarifies investigation requirements.

(1) *[On or prior to]* **At least** ninety (90) days before the first anniversary of its license, second anniversary of its license, and *[each]* **every** two (2) years **there**after *[that]*, each Class A **and Class B** licensee *[must]* **shall** file for license renewal on forms provided by the commission *[(see Appendix A)]*.

(2) Each sixth year from the original license a comprehensive investigation for the period since the last comprehensive investigation shall be conducted on the Class A, Class B supplier and key licensees in the same manner as the initial investigation. The licensee shall be assessed fees, if any, to cover additional cost of the investigation.

[Appendix A

Missouri Gaming Commission
3417 Knipp Drive
Jefferson City Missouri 65109

Renewal Application for All Licenses

_____
(Name of Licensee)

gives notice to the Missouri Gaming Commission of its intent to seek renewal of its existing license. Further the licensee affirms that all information requested on the initial licensing application is currently updated and submitted to the commission and that if licensee holds a supplier, temporary supplier, affiliate supplier or Class A license, licensee has attached hereto two copies of each piece of information updating the application since the initial licensing or the latest license renewal, if this renewal notice is not the initial renewal. Licensee also affirms that it has attached hereto responses to additional information requests on a form provided by the commission.

_____
(Authorized Signature)

_____
(Date)]

*AUTHORITY: sections 313.004 and 313.800–313.850, RSMo [1994 and Supp. 1997] **2000 and Supp. 2006**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.200 Supplier's License. The commission is amending sections (1)–(4).

PURPOSE: This rule clarifies requirements for a supplier's license.

(1) A supplier's license is required of persons who **or entities which manufacture,** sell or lease *[gambling]* **gaming** equipment, *[gambling]* **gaming** supplies, or both, **or provide gaming equipment maintenance or repair, or provide testing services on gaming related equipment, components, peripherals or systems or provide services on the gaming floor that relate to gaming equipment or whose primary function is providing a service to patrons, or other items directed by the commission** to *[any]* **a** Class A **or Class B** licensee**, unless exempted by the executive director. Additionally the executive director may waive or modify licensing fees. Exemption shall not be applicable for testing laboratories**.

(2) *[Applications]* **An application for a supplier's license** shall be made on a form obtained from the commission. Copies of all necessary forms are available for public inspection at the offices of the commission **or online at the commission's web site**.

(3) Applications shall include:

(E) *[A Personal Disclosure Form I for applicant and each key person, including the chief administrative officer]* **A key person/key person business entity and Level I application for each key person**;

(J) If the applicant is a corporation, the application must disclose—

1. The applicant's full corporate name and any trade names or fictitious names used by the applicant in this or any other jurisdiction;

2. The jurisdiction and date of incorporation;

3. The date the applicant commenced doing business in Missouri, if any, and if the applicant is incorporated in any jurisdiction other than Missouri, a copy of the applicant's certificate or authority to do business in Missouri;

4. Copies of each of the following:

A. Articles of Incorporation;

B. Bylaws;

C. Federal corporate tax returns for the past five (5) years; and

D. State corporate tax returns for the past five (5) years;

5. Whether the applicant is publicly held as defined by the rules of the Securities and Exchange Commission;

6. All the classes of stock authorized by the Articles of Incorporation. As to each class, the applicant shall disclose—

A. The number of shares authorized;

B. The number of shares issued;

C. The number of shares outstanding;

D. The par value of each share;

E. The issue price of each share;

F. The current market price of each share;

G. The number of shareholders currently listed on the corporate books; and

H. The terms, rights, privileges and other information each class of stock possesses;

7. If the applicant has any other obligations or securities, authorized or outstanding, which bear voting rights, either absolutely or upon any contingency, together with the nature of the obligations. In addition, the following shall be disclosed for each obligation:

A. The face or par value;

B. The number of units authorized;

C. The number of units outstanding; and

D. Any conditions upon which the units may be voted;

8. The names and addresses of the directors. As to each director, the following information shall be included: the number of shares held of record as of the application date—

A. If the officer owns no shares, the application shall so state; and

B. Ownership of shares shall include beneficial owner(s) *[as that term is defined in section 313.600.4, RSMo;]***. Beneficial ownership includes, but is not limited to, record ownership and: 1) Stock or other ownership in one (1) or more entities in a chain of parent and subsidiary or affiliated entities, any one (1) of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved; or 2) Any interest which entitles a person to benefits substantially equivalent to ownership by reason of any contract, understanding, relationship, agreement or other arrangement even though the person is not the record owner. Unless there are special circumstances, securities held by an individual's spouse or relatives, including children, living in the home, who are beneficially owned by the individual;**

9. The names and addresses of the officers of the applicant. As to each officer, the following information shall be included: the number of shares held on record as of the application date.

A. If the officer owns no shares, the application shall so state; and

B. Ownership of shares shall include beneficial owners**.***[as that term is defined in section 313.600.4 RSMo;]***. Beneficial ownership includes, but is not limited to, record ownership and: 1) Stock or other ownership in one (1) or more entities in a chain of parent and subsidiary or affiliated entities, any one (1) of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved; or 2) Any interest which entitles a person to benefits substantially equivalent to ownership by reason of any contract, understanding, relationship, agreement or other arrangement even though the person is not the record owner. Unless there are special circumstances, securities held by an individual's spouse or relatives, including children, living in the home, who are beneficially owned by the individual;**

10. The names, in alphabetical order, and addresses of each

record stockholder of the corporation. Stockholder shall mean record owners as defined in *[section 313.600.1, RSMo]* **(3)(J)9.B. above**. The applicant shall also include a percentage of the voting shares of stock owned by each record stockholder;

11. Each jurisdiction, including the United States, for which the corporation has met filing and disclosure requirements of state securities registration and filing laws, the Securities Act of 1933 or the Securities and Exchange Act of 1934. The applicant shall include the most recent registration statement and annual report filed with the Securities and Exchange Commission and each state in which the corporation has registered or filed the report. If the applicant has not registered or filed any statements with the Commissioner of Securities of the Secretary of State of Missouri, the applicant must state the reason the filing has not been made, including specific reference to the exemption or exception upon which the applicant relies for not filing with the Commissioner of Securities of the Secretary of State of Missouri; and

(K) If the applicant is an organization other than a corporation, the following information must be disclosed:

1. The applicant's full name including any trade names or fictitious names currently in use by the applicant in Missouri or any other jurisdiction;

2. The jurisdiction in which the applicant is organized;

3. Copies of any written agreement, constitution or other document creating or governing the applicant's organization or powers of organization;

4. The date the applicant commenced doing business in Missouri.

A. If the applicant is organized under laws other than Missouri laws, a copy of the authorization of Missouri to do business in Missouri;

B. If no authorization to do business in Missouri has been obtained, the applicant must state the reason the authorization has not been obtained;

5. The applicant's federal and state tax returns for the past five (5) years;

6. The general nature of the applicant's business;

7. The names and addresses of each partner, officer or other person having or sharing policy-making authority who is a key person. As to each such person, the applicant must disclose—the nature and extent of any ownership interest—

A. Ownership interest shall include any beneficial owner.*[which is covered by section 313.600.4, RSMo; and]* **Beneficial ownership includes, but is not limited to, record ownership and: 1) Stock or other ownership in one (1) or more entities in a chain of parent and subsidiary or affiliated entities, any one (1) of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved; or 2) Any interest which entitles a person to benefits substantially equivalent to ownership by reason of any contract, understanding, relationship, agreement or other arrangement even though the person is not the record owner. Unless there are special circumstances, securities held by an individual's spouse or relatives, including children, living in the home, who are beneficially owned by the individual; and**

B. Any voting interest, whether absolute or contingent, and the terms upon which the interest may be voted; and

8. The names, in alphabetical order, and addresses of any individual or other entity who holds a record or beneficial ownership *[as defined in section 313.600.4, RSMo]* in the application. **Beneficial ownership includes, but is not limited to, record ownership and: 1) Stock or other ownership in one (1) or more entities in a chain of parent and subsidiary or affiliated entities, any one (1) of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved; or 2) Any interest which entitles a person to benefits substantially equivalent to ownership by reason of any contract, understanding, relationship, agreement or other arrangement even though the person is not the record owner. Unless there are special circumstances, securities held by an individual's spouse or relatives, including children, living in the home, who are beneficially owned by the individual.** The following information shall be given concerning each individual:

A. The nature of the ownership interest;

B. Whether the ownership interest carries a vote and the terms upon which the interest may be voted; and

C. The percentage of ownership;

(M) Whether applicant or any key person/**key person business entity** currently holds, *[or]* has ever held **or applied for**, a license or permit issued by a governmental authority to own or supply gaming equipment or operate a gaming facility or conduct any aspect of gambling. If the applicant has held or holds a license or permit, the applicant must disclose—

1. The identity of the license or permit holder;
2. The jurisdiction issuing the license or permit;
3. The nature of the license or permit; and
4. The dates of issuance and termination, if any;

(N) Whether any person currently serving, or any person who within the past two (2) years has served, as a member of the commission, an employee of the commission, a member of the general assembly, or as an elected official of the state, or if any city or county in the state in which licensing or excursion gambling boats have been approved, has any ownership interest in the applicant;

(4) The applicant must disclose with respect to the applicant and all key persons/**key person business entities**—

AUTHORITY: sections 313.004 ***and*** *313.805, RSMo 2000 and 313.810,* ***RSMo Supp. 2006****. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed Dec. 3, 2007.*

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

PRIVATE COST: This proposed amendment will cost private entities two hundred thousand dollars ($200,000) annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PRIVATE COST

I. Department Title: 11-DEPARTMENT OF PUBLIC SAFETY
Division Title: 45-Missouri Gaming Commission
Chapter Title: 4-Licenses

Rule Number and Title:	11 CSR 45-4.200 Supplier's License
Type of Rulemaking:	Regulatory, Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Annual Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
(1) Currently there are 14 suppliers licensed in Mo.	It is estimated that there will be four (4) manufacturer and two (2) laboratories in this class for a new total of 20 suppliers.	GRAND TOTAL = $200,000

III. WORKSHEET

NEW SUPPLIERS:

6 Suppliers	@	$10,000	=	$ 60,000
	TOTAL			$ 60,000

CURRENT SUPPLIERS:

14 Suppliers	@	$10,000	=	$140,000
	TOTAL			$140,000
	GRAND TOTAL		=	$200,000

IV. ASSUMPTIONS

(1)
It is estimated that there will be four (4) manufacturer and two (2) laboratories in this class for a new total of 20 suppliers at a cost of $10,000 per license.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.205 Affiliate Supplier's License. The commission is amending sections (1) and (5), adding section (6) and renumbering the remaining sections accordingly.

PURPOSE: This amendment establishes an affiliate supplier's license, which may be issued to affiliates of riverboat licensees.

(1) An affiliate supplier's license is required of any person who is an affiliate of a Class A **or Class B** licensee or a key person/**key person business entity** of a Class A licensee and sells or leases gambling equipment, gambling supplies or both to its Class *[A]***B** licensee affiliate. For purposes of 11 CSR 45-4.205, an "affiliate" of, or a person "affiliated" with, a specific person is a person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(5) The one (1) time nonrefundable application fee for an affiliate supplier's license shall be ten thousand dollars ($10,000), or a greater amount as determined by the commission. *[At the commission's discretion, t]***T**he applicant or licensee shall be assessed *[additional]* fees**, if any,** to cover *[the]* **additional** cost of the investigation.

(6) The key person/key person business entity employed by affiliate suppliers will be required to be licensed by the Missouri Gaming Commission. The affiliate supplier key person/key person business entity application shall require a one (1) time nonrefundable fee of one thousand dollars ($1,000) plus the annual licensing fee of one hundred dollars ($100). The applicant or licensee shall be assessed fees, if any, to cover additional cost of the investigation. The licensing and renewal fees for Level I and Level II occupational licenses shall be the same as set forth for Class A and Class B occupational licensees.

[(6)] **(7)** The annual fee for an affiliate supplier's license shall be five thousand dollars ($5,000), or a greater amount as determined by the commission. The annual fee for an affiliate supplier's license is due upon issuance of the initial license and thereafter is due upon application for renewal of the license. This fee is nonrefundable and is due regardless whether the renewal applicant obtains a renewed license.

[(7)] **(8)** *[On or prior to]* **At least** ninety (90) days before license expiration, each affiliate supplier licensee shall register on forms provided by the commission for renewal of its license. *[(See 11 CSR 45-5.190, Appendix A).]*

[(8)] **(9)** The holder of an affiliate supplier's license shall be subject to all the regulations applicable to the holder of a supplier's license; provided, however, notwithstanding any other regulation to the contrary, the holder of an affiliate supplier's license may only purchase or lease gambling equipment or gambling supplies from the holder of a supplier's license or temporary supplier's license or from its affiliate Class A **or Class B** licensee and may only sell or lease gambling equipment or gambling supplies to the holder of a supplier's license or temporary supplier's license or to its affiliate Class *[A]***B** licensee. Notwithstanding any other regulation to the contrary, no holder of an affiliate supplier's license may directly or indirectly sell or lease gambling equipment or gambling supplies to any Class A **or Class B** licensee that is not an affiliate of the holder of the affiliate supplier's license.

AUTHORITY: sections 313.004, 313.805, 313.807 and 313.812, RSMo 2000 ***and*** *313.800,* ***RSMo Supp. 2006****. Original rule filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Oct. 29, 2001, effective May 30, 2002. Amended: Filed Dec. 3, 2007.*

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

PRIVATE COST: This proposed amendment will cost private entities two hundred forty-five thousand dollars ($245,000) annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PRIVATE COST

I. Department Title: 11--DEPARTMENT OF PUBLIC SAFETY
Division Title: 45--Missouri Gaming Commission
Chapter Title: 4--Licenses

Rule Number and Title:	11 CSR 45-4.205 Affiliate Supplier's Licenses
Type of Rulemaking:	Regulatory, Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Annual Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
(6) Currently there are 223 supplier individuals that will qualify as an affiliate supplier licensee.	It is estimated that there will be 223 supplier affiliate licenses.	GRAND TOTAL = $245,000

III. WORKSHEET

(6)
AFFILIATE SUPPLIER LICENSES:

223 Affiliate supplier licensees

@	$1,100	=	$245,000
GRAND TOTAL		=	$245,000

IV. ASSUMPTIONS

(6)
AFFILIATE SUPPLIER LICENSES

It is estimated that there will be 223 supplier affiliate licenses at a cost of $1,100 per license.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.210 Temporary Supplier's License. The commission is amending sections (1) and (3) and adding section (9).

PURPOSE: This amendment establishes procedures whereby the commission may issue temporary supplier's licenses.

(1) The commission, in its sole discretion, may issue a temporary supplier's license to any applicant for a supplier's license *[to any applicant for a supplier's license who has fulfilled the following criteria:]* **other than one which provides testing services for gaming related equipment, components, peripherals or systems or other items directed by the commission, who has fulfilled the following criteria:**

(3) A temporary license issued under the provisions of this rule shall not be transferred. If an applicant fails to begin providing goods or services to a Class A **or Class B** licensee within ninety (90) days of issuance of the temporary license, the applicant shall advise the commission immediately and the commission may, in its discretion, revoke the temporary license.

(9) Gaming laboratories that test and certify gaming equipment shall not be issued temporary licenses.

*AUTHORITY: sections 313.004 and 313.800–313.850, RSMo [1994] **2000** and Supp. [1997] **2006**. Original rule filed March 18, 1996, effective Sept. 30, 1996. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 3, 2007.*

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

PRIVATE COST: This proposed amendment will cost private entities forty thousand dollars ($40,000) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PRIVATE COST

I. Department Title: 11--DEPARTMENT OF PUBLIC SAFETY
Division Title: 45--Missouri Gaming Commission
Chapter Title: 4--Licenses

Rule Number and Title:	11 CSR 45-4.210 Temporary Supplier's License
Type of Rulemaking:	Regulatory, Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the 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:
Currently there are four (4) temporary supplier licenses.	It is estimated that there will be a total of 4 temporary licenses.	GRAND TOTAL = $40,000

III. WORKSHEET

TEMPORARY LICENSES:

4 Temporary Licenses

@	$10,000	=	$40,000
GRAND TOTAL		=	$40,000

IV. ASSUMPTIONS

It is estimated that there will be a total of 4 temporary licenses at a cost of $10,000 per license.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.230 Supplier's License Criteria. The commission is amending section (2), adding sections (3) and (4) and renumbering section (3) to section (5).

PURPOSE: This amendment establishes criteria for a supplier's license.

(2) In making the required determinations, the commission may consider the following factors and indices, among others:

(A) The integrity of the applicant and any personnel to have duties or responsibilities for the applicant. This determination shall include consideration of:

1. Any criminal record **including any federal, state, county, city violations to include ordinance violation(s)** of any individual;

2. The involvement in litigation over business practices by the applicant or any individuals or entities affiliated with the applicant;

3. The involvement in proceedings in which unfair labor practices, discrimination or regulation of gambling was an issue; and

4. Failure to satisfy any judgments, orders or decrees of any court;

(3) Any supplier licensee shall maintain a log of all written, electronic, or otherwise documented complaints received relating to gaming products and services provided and shall provide the log and supporting documentation to the commission upon request. The log shall be provided to the commission with the renewal application. The complaint log and supporting documentation shall be a closed record pursuant to section 313.847, RSMo unless otherwise determined by the commission.

(4) An independent testing laboratory applying for a supplier license is subject to compliance with all other requirements of this rule in addition to the following criteria:

(A) The independent testing laboratory (hereinafter referred to as "test laboratory") shall test, evaluate, conduct math analyses, verify, certify, and/or render opinions as directed by the commission on—

1. Table games, including electronic and dealer assisted electronic table games;

2. Electronic gaming devices and payglass;

3. Random number generators;

4. Progressive gaming devices and controllers;

5. Wide area progressive systems and associated equipment;

6. Online monitoring and control systems;

7. Ticket validation systems;

8. Wireless devices and systems;

9. Cashless, promotional, and bonusing systems;

10. Kiosks;

11. All gaming related peripherals, software, and systems;

12. Electronic bingo devices, software, and systems;

13. Shuffling devices; and

14. Other gaming devices and associated equipment (hereinafter referred to as "gaming equipment") for compliance with Missouri laws, regulations, adopted technical standards, and requirements as codified or otherwise set forth;

(B) No test laboratory or its owners, officers, directors, managers, or employees shall—

1. Own any interest in or be employed by:

A. A Class A licensee; or

B. A Class B licensee; or

C. A Level I occupational licensee; or

D. A Level II occupational licensee; or

E. An affiliate supplier licensee; or

F. A supplier licensee other than the test laboratory for whom the person is an officer, director, manager, or employee.

2. This regulation shall not preclude test laboratories from contracting directly with suppliers or gaming companies to produce test reports that are in turn used to show evidence of regulatory compliance;

(C) No Class A, Class B, supplier, affiliate supplier or occupational licensee shall own an interest in or be employed by a test laboratory performing services relating to the conduct or regulation of gaming in Missouri unless such person is required to be licensed as a key person or occupational licensee in conjunction with a test laboratory's licensing as a supplier. No person may be a key person or employed by more than one (1) test laboratory licensed by a jurisdiction within the United States;

(D) The test laboratory shall make available upon the commission's request the background investigations conducted on each of its employees pursuant to 11 CSR 45-10.090;

(E) The test laboratory shall perform all compliance requirements to the sole satisfaction of the commission;

(F) Prior to any new technology being certified for the Missouri jurisdiction, the test laboratory shall consult with the commission and obtain approval from the commission prior to testing, evaluating, analyzing, certifying, verifying, or rendering opinions for or on behalf of the commission. The test laboratory may bill the supplier of the new technology for all cost associated with such consultation with the commission. Any information a test laboratory may provide to the commission relating to the consideration of new technology shall be considered proprietary information and a closed record pursuant to section 313.847, RSMo provided such information is mutually agreed upon between the commission and the test laboratory and labeled as proprietary.

(G) All testing and certification of gaming equipment performed for or on behalf of the commission shall be conducted at the test laboratory's place(s) of business which shall be located within the United States, all of which shall maintain current International Organization for Standardization (ISO) (17020/17025) certification and accreditation. Upon request, the test laboratory must supply the commission all ISO required internal controls, policies and procedures. In extreme circumstances, the executive director may authorize, in writing, testing and certification of gaming equipment outside of the United States on a temporary basis;

(H) The test laboratory shall not subcontract any testing or certification of gaming equipment performed for or on behalf of the commission without prior written approval from the commission;

(I) The commission shall, at all times, have immediate and unfettered access to the test laboratory's place(s) of business. Should it be determined necessary by the commission, the test laboratory shall reimburse the commission for all reasonable and necessary expenses incurred by its agents:

1. To travel to the site to inspect the operations and certification process of gaming equipment;

2. To inspect each of the test laboratory's place(s) where testing for the commission is conducted to ensure the integrity of work is maintained;

3. To investigate quality control issues as determined by the commission; and

4. For such reasons as the commission deems appropriate;

(J) All reports, documentation, and material developed or acquired by the test laboratory while conducting work for or on behalf of the commission shall become the joint property of the commission and the test laboratory. Upon expiration, termination, or cancellation of the licenses, certified copies of all documents, data, reports, and accomplishments prepared, furnished or completed by the test laboratory for or on behalf of the

commission shall be delivered to the commission within forty-five (45) calendar days and become the joint property of the commission and the test laboratory. In addition, the test laboratory shall provide access to any equipment or materials used while conducting work for or on behalf of the commission for a period of one hundred twenty (120) days after the expiration, termination or cancellation of the licenses.

1. Reports, documentation, conversation, discussions, and material prepared, including program(s) or source code developed as a result of work performed for or on behalf of the commission, are proprietary and confidential and shall not be used or marketed by the test laboratory or released to the public without the prior written consent of the commission, which shall not be unreasonably withheld.

2. The test laboratory shall employ data redundancy that permits a complete and prompt recovery of all information and documentation retained by the test laboratory in the event of any malfunction and shall utilize environmental controls such as uninterruptible power supplies and fireproofing and waterproofing materials to protect critical hardware and software from natural disasters.

3. The test laboratory shall maintain a repository of approved, obsolete, and revoked software for all gaming equipment tested and certified. The repository shall be secure and have restricted access, which shall be documented on a commission approved ingress and egress log. The test laboratory shall retain the log for a minimum of two (2) years. The repository shall be equipped with environmental controls such as fireproofing and waterproofing materials to protect software from natural disasters. The test laboratory shall provide the commission copies of all previously certified Critical Program Storage Media (CPSMs) within one hundred twenty (120) days of the expiration, termination or cancellation of the test laboratory's license.

4. All documents, data, reports, and accomplishments prepared, furnished or completed by the test laboratory for or on behalf of the commission shall be retained until its disposal is approved in writing by the commission;

(K) Upon the test laboratory's certification of gaming equipment, a unique identification code or signature acceptable to and approved by the commission shall be assigned to each CPSM as defined by 11 CSR 45-1.090. The assigned identification code or signature and the means for generating such code or signature shall be included in all documents, reports, and databases.

1. The test laboratory shall provide the commission with step-by-step verification procedures for each tool, device or mechanism used to assign the unique identification codes or signatures.

2. The test laboratory shall provide to the commission, at no charge, in quantities determined by the commission, any verification tool, device or mechanism that is required for commission agents to verify the code or signature of any approved CPSM. The test laboratory may charge the supplier for expenses associated with such verification tools.

3. The test laboratory must support the verification tools, devices or mechanisms and replace, repair, update or upgrade them as deemed necessary by the commission. The test laboratory may charge the supplier for expenses associated with such verification tools.

4. All equipment, procedures, software or other intellectual property developed, or owned and protected by United States' patents, copyrights, or trademark laws in conjunction with the unique identification signature process shall be closed record under section 313.847, RSMo provided such information is mutually agreed upon between the commission and the test laboratory and labeled as proprietary;

(L) The test laboratory shall provide, in a commission approved format:

1. A verification manual, including tables and color photographs, of all critical components identified by the test laboratory or commission must be verified and sealed.

2. Flow charts and diagrams of each system and its associated hardware and software approved by the test laboratory on behalf of the commission, depicting the interrelationship of system components, identifying components which are to be field tested and verified by commission agents.

3. The supplier of the equipment to be verified shall be responsible for all expenses associated with providing the verification manuals and diagrams. Failure of the supplier to pay the necessary expenses shall in no way release the test laboratory from providing to the commission current documentation as outlined in paragraphs (4)(L)1. and 2.;

(M) The test laboratory shall develop and maintain a database, acceptable to the commission, of all approved, obsolete, and revoked gaming equipment certified for the state of Missouri.

1. The test laboratory shall maintain a quality assurance mechanism to ensure uniform data and data entry processes.

2. The database and report(s) must be current as of the end of the previous business day, and in a commission approved format;

(N) The test laboratory shall, within five (5) business days after the certification, rejection, or withdrawal of any submission, issue a letter to the commission describing the testing that was performed on the gaming equipment and the result of such testing. All letters or documentation must be submitted in a commission approved format. All certifications are subject to review by the commission. The commission, through the executive director, reserves the right to immediately suspend, revoke or reject any test laboratory certifications with or without cause. The test laboratory may request, in writing, a hearing within thirty (30) days of the occurrence. The executive director will exercise authority to resolve all issues at hearing subject to appeal to the commission;

(O) Should the test laboratory be informed of any situation or incident involving the integrity of any gaming equipment presently approved for Missouri, the test laboratory shall immediately notify the commission of the incident;

(P) The test laboratory shall directly invoice the licensee, supplier, entity or individual for whom the testing services were provided;

(Q) The test laboratory shall not receive any bonus, premium, or other compensation from any licensee, supplier, entity, or individual(s) above the provided billable hourly rates pursuant to subsection (4)(Y) for services provided;

(R) The test laboratory shall, upon request, provide the commission a summary report of all invoices to licensees, suppliers, entities or individuals during the previous month. The report shall include for each submission the item submitted—

1. The date on which the submission was received in the laboratory;

2. The date rejected, withdrawn or certified;

3. The invoice number;

4. Invoice date;

5. Name of licensee, supplier, entity or individual for whom the services were rendered;

6. Billable hours;

7. Hourly rates;

8. Invoice total;

9. The test laboratory shall be subject to commission audits, the costs for which shall be born by the test laboratory;

(S) The test laboratory shall possess and maintain all online computerized data monitoring systems approved by the commission which are utilized in Missouri licensed gaming establishments. Such online computerized data monitoring systems shall be used in the interoperability testing as set forth in 11 CSR 45-5.190;

(T) The test laboratory shall provide, free of charge to the commission, twenty-four (24) hours a day, technical and regulatory compliance support. The test laboratory shall provide responses and follow-up within twelve (12) hours. In instances where the test laboratory providing the support is also conducting the testing for the device, the time allocated for support shall be considered part of the testing process and the test laboratory may bill the supplier for the cost of the technical support. In instances where the test laboratory providing the support is not conducting the testing for the device, the commission may require the supplier of the device to reimburse the test laboratory at the rate the test laboratory charges suppliers for such support;

(U) The test laboratory shall, as required by the commission, perform on-site inspections of gaming equipment. During on-site inspections, the test laboratory:

1. Inspection personnel shall not socialize with gaming operators' or suppliers' staff;

2. Shall furnish all necessary material and equipment to perform the required services;

3. Shall provide competent and properly trained personnel in accordance with testing standards, Missouri laws, regulations, and internal policies;

4. Shall invoice for actual and reasonable travel and travel related expenses consistent with ordinary and prudent business practices given the circumstances of the travel required for the project. The commission shall not be liable for reimbursement for such travel and travel related expenses. The licensee, for whom the on-site inspection occurred, shall be responsible for the payment of travel and related travel expenses;

5. Inspection personnel shall obtain a Missouri Level II occupational license prior to performing any actions on the gaming floor;

(V) The test laboratory shall provide, free of charge, additional consulting services for commission personnel on an as needed, if needed basis. Such additional services at a minimum shall include, but not be limited to:

1. Providing consultation to the commission and assist the commission in drafting rules and procedures regarding the establishment of uniform operating procedures for gaming equipment testing;

2. Providing training to commission employees on gaming equipment testing, new technology, and auditing procedures;

(W) The test laboratory shall create gaming equipment test scripts and test plans which measure adherence to Missouri statutes, regulations, and adopted technical standards. All gaming equipment shall be tested in accordance with said test scripts and test plans. The commission will assess the test laboratory's test scripts' and test plans' adequacy in measuring compliance with Missouri laws, regulation, and adopted technical standards. The test laboratory shall modify the test scripts and test plans to adapt to new technology or as directed by the commission. The test laboratory and commission will conduct an annual review of the test scripts and test plans, and modify them as necessary. All documents, procedures or other intellectual property employed by a test laboratory in conjunction with the development of test scripts is deemed to be proprietary information and a closed record under section 313.847, RSMo, unless otherwise determined by the commission;

(X) The test laboratory shall conduct forensic evaluations or analyses on gaming equipment (whether legal or illegal) as directed by the commission. A final forensic report must be drafted outlining all testing performed, the cause of the problem, and the outcome of the investigation if specifically identified;

(Y) The test laboratory shall annually, or as changes occur, provide documentation to the commission of all possible billable hourly rates for services offered;

(Z) The test laboratory shall employ a staff of full-time skilled professionals of such number to afford a separation of responsibilities that provides independent work product verification and fulfills the requirements stated herein to the satisfaction of the commission. The test laboratory shall, at a minimum, employ personnel in the disciplines of mathematics, engineering (mechanical, electrical, and software), systems and communication protocol, compliance and quality assurance, and field inspections;

(AA) The test laboratory shall only utilize personnel in performance of services who are authorized to work in the United States in accordance with applicable federal and state laws and regulations; and

(BB) The test laboratory shall provide all services using competent and properly trained personnel in accordance with the highest testing standard of the gaming industry.

[(3)] **(5)** The commission may also consider any other information which the applicant discloses and which is relevant or helpful to a proper determination by commission and any information disclosed during the background investigation.

*AUTHORITY: sections 313.004 and 313.805, RSMo [1994] **2000**. Emergency rule filed Feb. 3, 1995, effective Feb. 13, 1995, [effective] **expired** June 12, 1995. Original rule filed Feb. 3, 1995, effective Aug. 30, 1995. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.240 Supplier's License Application and Annual Fees. The commission is amending the purpose statement, section (1) and adding section (4).

PURPOSE: This amendment establishes fees for all types of supplier's licenses.

*PURPOSE: This rule establishes fees for [a] **all types of** supplier's licenses.*

(1) The one (1)-time nonrefundable application fee for a supplier's license shall be ten thousand dollars ($10,000), or a greater amount as determined by the commission. *[At the commission's discretion,* t*/***T**he applicant or licensee shall be assessed *[additional]* fees**, if any,** to cover *[the]* **additional** cost of the investigation.

(4) The key person/key person business entity employed by suppliers will be required to be licensed by the Missouri Gaming Commission. The supplier key person/key person business entity

application shall require a one (1)-time nonrefundable fee of one thousand dollars ($1,000) plus the annual licensing fee of one hundred dollars ($100). The applicant or licensee shall be assessed fees, if any, to cover additional cost of the investigation. The licensing and renewal fees for Level I and Level II occupational licenses shall be the same as set forth for Class A and Class B occupational licensees.

*AUTHORITY: sections 313.004 and 313.800–313.850, RSMo [1994] **2000** and Supp. [1997] **2006**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 3, 2007.*

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

PRIVATE COST: This proposed amendment will cost private entities six hundred eighty-three thousand dollars ($683,000) during the first year and one hundred thirty thousand dollars ($130,000) annually.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PRIVATE COST

I. Department Title: 11--DEPARTMENT OF PUBLIC SAFETY
Division Title: 45--Missouri Gaming Commission
Chapter Title: 4--Licenses

Rule Number and Title:	11 CSR 45-4.240 Supplier's License Application and Annual Fees
Type of Rulemaking:	Regulatory, Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Annual Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
(1) One-time nonrefundable Supplier's license. Currently there are 14 suppliers licensed in Mo. Currently there are four (4) temporary supplier licenses, for a total of 18.	It is estimated that there will be four (4) manufacturer and two (2) laboratories in this class for a new total of 20 suppliers, resulting in a total of 24 supplier's licenses.	GRAND TOTAL = $240.000
(2) (A) - (C) Annual fee of $5,000. for 14 currently licensed suppliers.	Annual fee of $5,000 for an estimated total of 20 suppliers.	GRAND TOTAL = $130,000
(4) Currently there are 223 supplier individuals that will qualify as an affiliate supplier licensee.	It is estimated that there will be 223 supplier affiliate licenses.	GRAND TOTAL = $245,000
(4) It is anticipated that eight (8) Level I licenses will result from the licensing of individuals not currently required to be licensed as Level I's under suppliers.	It is estimated that there will be eight (8) Level I licenses required due to this proposal of licensing individuals under Supplier's Licenses. It is also estimated that there will be an estimated 68 Level I licenses due to the licensing of manufacturers and laboratories, resulting in a total of 72 Level I licensees.	GRAND TOTAL = $68,000

III. WORKSHEET

(1)
NEW SUPPLIERS:

6 Suppliers	@	$10,000	=	$ 60,000
	TOTAL			$ 60,000

CURRENT SUPPLIERS:

14 Suppliers	@	$10,000	=	$140,000
	TOTAL			$140,000

(1) continued

TEMPORARY LICENSES:

4 Temporary Licenses				
	@	$10,000	=	$ 40,000
	TOTAL		=	$ 40,000
	GRAND TOTAL		=	$240,000

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2 (A)-(C)

NEW SUPPLIERS:

6 Suppliers	@	$5,000	=	$ 30,000
	TOTAL			$ 60,000

CURRENT SUPPLIERS:

14 Suppliers	@	$5,000	=	$70,000
	TOTAL			$70,000
	GRAND TOTAL		=	$130,000

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(4)
NEW AFFILIATE LICENSES

223 affiliate licenses	@	$1,100	=	$245,000
	GRAND TOTAL		=	$245,000

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(4)
LEVEL I LICENSES UNDER SUPPLIER'S LICENSES:

8 Level I Licenses	@	$1,000	=	$ 8,000
68 Level I Licenses- Manufacturers and Laboratories	@	$1,000	=	$68,000
	TOTAL		=	$68,000
	GRAND TOTAL		=	$68,000

IV. ASSUMPTIONS

(1)
It is assumed that there will be 24 required supplier licenses at a cost of $10,000 per license.

(2) (A)-(C)
It is assumed that there will be 20 required annual renewals per year at a cost of $5,000 per license per year.

(4)
NEW AFFILIATE LICENSES

It is assumed that there will be 223 new affiliate licenses required of individuals currently working for suppliers that are not currently required to be licensed individually. The cost per license is assumed to be $1,100 -- $1,000 one time non-refundable fee plus an annual licensing fee of $100. The first year is calculated to be $245,000. Subsequent years can be calculated as 223 affiliate license renewals at a cost of $100 per renewed license for a total in any subsequent year to be $22,300.

(4)
NEW LEVEL I LICENSE ATTRIBUTABLE TO SUPPLIERS

It is assumed that there will be 8 new Level I licenses required due to proposed licensing requirements at a cost of $1,000 per license.

(4)
NEW LEVEL I LICENSES ATTRIBUTABLE TO LICENSING OF MANUFACTURERS AND LABORATORIES AS SUPPLIERS.

It is assumed that there will be 72 new Level I licenses required due to proposed licensing requirements of Level I licensees under the licensing of manufacturers and laboratories as suppliers at a cost of $1,000 per license.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.250 Supplier's License Renewal. The commission is amending section (1) and adding section (2).

PURPOSE: This amendment establishes the process for renewal of a supplier's license.

(1) *[On or prior to]* **At least** ninety (90) days before license expiration, each supplier licensee shall register on forms provided by the commission for renewal of its license *[(see 11 CSR 45-4.190. Appendix A)]*.

(2) The commission may adjust renewal dates of the supplier licenses to economize commission resources in any particular month. Any such adjustments shall result in a pro rata adjustment of fees.

*AUTHORITY: sections 313.004 and 313.800–313.850, RSMo [1994] **2000** and Supp. [1997] **2006**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency ruled filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed June 25, 1996, effective Feb. 28, 1997. Amended: Filed July 2, 1997, effective Feb. 28, 1998. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.260 Occupational Licenses *for Class A, Class B, Suppliers and Affiliate Suppliers*. The commission is amending the title and sections (1), (4) and (5).

PURPOSE: This amendment updates requirements for an occupational license.

(1) Every person in a position classified as Occupational License Level One (I) or Occupational License Level Two (II) or *[otherwise participating in gaming operations in any capacity is required to have an occupational license from the commission authorizing him/her to be employed on the licensed premises to practice his/her business profession or skills,]* **performing the duties of one of the aforementioned positions shall, prior to performing said functions, obtain the appropriate occupational license from the commission and must be current employees of the Class A, Class B or supplier licensee,** except for public officers and public employees engaged in the performance of their official duties and other individuals exempted by the commission. The commission may authorize the director to license or make the initial determination of unsuitability on the application of any Level II occupational license applicant; provided, however, that this section shall not limit any other authorization of the director. The authorization provided hereunder shall not include the authority to review findings of a hearing officer under the provisions of 11 CSR 45-13.

(4) The commission may refuse an occupational license to any person or revoke or suspend an occupational license of any person—

(A) Who has been convicted of a crime or has been found guilty of, plead guilty or *nolo contendere* to, or entered an Alford plea to a crime, *[including such findings or pleas in a suspended imposition of sentence]* **or received a suspended imposition of sentence, for violations of any federal, state, county or city law including ordinance violations**;

(5) Within the five (5)-year period immediately preceding application for an occupational license or while holding an occupational license, a conviction, plea of guilty or *nolo contendere*, or the entering of an Alford plea in any jurisdiction for the following types of misdemeanor or *[municipal offenses]* **county or city violations to include ordinance violations**, including such findings or pleas in a suspended imposition of sentence, shall make the applicant or licensee unsuitable to hold an occupational license: 1) any gambling-related offense; or 2) any offense an essential element of which is theft, fraud, or dishonesty. Applicants or licensees may be unsuitable to hold an occupational license for convictions, pleas of guilty or *nolo contendere*, or the entering of an Alford plea for other types of misdemeanor or *[municipal offenses]* **county or city violations to include ordinance violations** within such five (5)-year period, including such findings or pleas in a suspended imposition of sentence.

*AUTHORITY: sections 313.004 and 313.805, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 3, 2007.*

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

PRIVATE COST: This proposed amendment will cost private entities sixty-nine thousand three hundred fifty dollars ($69,350) annually.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PRIVATE COST

I. Department Title: 11--DEPARTMENT OF PUBLIC SAFETY
Division Title: 45--Missouri Gaming Commission
Chapter Title: 4--Licenses

Rule Number and Title:	11 CSR-45-4.260 Occupational Licenses for Class A, Class B, Suppliers and Affiliate Suppliers
Type of Rulemaking:	Regulatory, Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Annual Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
(1) It is estimated that there will be 68 new Level I licensees.	It is estimated that there will be an increase of 68 Level I licensees, for a total of 68 Level I gaming licenses	GRAND TOTAL= $68,000
(1) It is estimated there will be 18 new Level II gaming licenses in Mo.	It is estimated that there will be an increase of 18 Level II licensees due to the licensing of four (4) manufacturers and two (2) laboratories.	GRAND TOTAL = $1.350

III. WORKSHEET

(1)
NEW LEVEL I OCCUPATIONAL LICENSEES:

68 Level I	@	$1,000	=	$ 68,000
		TOTAL		$ 68,000
		GRAND TOTAL	=	$68,000

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(1)
NEW LEVEL II OCCUPATIONAL LICENSEES:

18 Level II Licenses	@	$75	=	$1,350

TOTAL		$1,350
GRAND TOTAL	=	$1,350

IV. ASSUMPTIONS

(1)
NEW LEVEL I OCCUPATIONAL LICENSEES:

It is estimated that there will be an increase of 68 Level I licensees, for a total of 68 Level I gaming licenses at a cost of $1,000 per license.

(1)
NEW LEVEL II OCCUPATIONAL LICENSEES:

It is estimated that there will be an increase of 18 Level II licensees due to the licensing of four (4) manufacturers and two (2) laboratories at a cost of $1,350 per license.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.380 Occupational *and Key Person/Key Person Business Entity* License Application and Annual Fees. The commission is amending the title, the purpose statement, sections (1)–(3) and (5), adding a section (4) and renumbering the remaining sections accordingly.

PURPOSE: This amendment sets the fee for a key person/key person business entity license.

PURPOSE: This rule establishes ***license fees for*** *occupational [license fees]* ***and key person/key person business entity licensees of Class A and Class B licensees***.

(1) The one (1)-time nonrefundable application filing fee shall be—

(A) Key person/key person business entity	**$15,000**
*[(A)]***(B)** Level I *[(other than key persons)]*	$ 1,000
*[(B)]***(C)** Level II	$ 75.

(2) The annual licensing fee shall be—

(A) Key person/key person business entity	**$ 500**
*[(A)]***(B)** Level I	*[$50]***$100**
*[(B)]***(C)** Level II	$ 50.

(3) *[At the commission's discretion, the applicant or licensee shall be assessed additional fees for the cost of the investigation.]* **A key person/key person business entity or level I licensee may renew their license only once following each termination of their association with a Class A, Class B or supplier licensee.**

(4) The applicant or licensee shall be assessed fees, if any, to cover additional cost of the investigation.

[(4)] **(5)** The initial annual fee for occupational licenses shall be due upon the earlier of—

(A) The date that a temporary identification badge is issued to the applicant;

(B) The date that a permanent identification badge is issued to the applicant; or

(C) The date that the commission passes a resolution granting the license to the applicant.

[(5)] **(6)** The initial annual fee for occupational licenses shall be paid in full to cover the first year of licensure. The license expires annually on the last day of the month of issue. The annual occupational license renewal fee will be billed to the Class A**, Class B** or *[S]***s**upplier licensee.

[(6)] **(7)** Each occupational license shall expire annually on the last day of the month of issue, but the licensing hearing shall be subject to being reopened at any time.

[(7)] **(8)** The annual fee for an occupational license is nonrefundable and is due regardless of whether the renewal applicant obtains a renewed license.

AUTHORITY: sections 313.004 and 313.800–313.850, RSMo 2000 ***and Supp. 2006****. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed Dec. 3, 2007.*

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

PRIVATE COST: This proposed amendment will cost private entities approximately $2,716,950 annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PRIVATE COST

I. Department Title: 11--DEPARTMENT OF PUBLIC SAFETY
Division Title: 45--Missouri Gaming Commission
Chapter Title: 4--Licenses

Rule Number and Title:	11 CSR 45-4.380 Occupational and Key Person/Key Person Business Entity License Application and Annual Fees
Type of Rulemaking:	Regulatory, Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Annual Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
(1)(A) There are 105 Key person/key person business entitities in Mo.	There are 105 Key person/key person business entitities in Mo.	GRAND TOTAL = $1,575,000 Represents Current Cost
(1)(B) There are 132 Level I gaming licenses in Mo currently	There are 132 Level I gaming licenses in Mo currently	GRAND TOTAL = $200,000 Represents Current Cost
(1)(C) There are 10,862 Level II gaming licenses in Mo. currently.	There are 10,862 Level II gaming licenses in Mo. currently.	GRAND TOTAL = $814,650 Represents Current Cost
(2)(A) There are 105 Key person/key person business entitities in Mo.	There are 105 Key person/key person business entitities in Mo.	GRAND TOTAL = $21,000
(2)(B) There are 132 Level I gaming licenses in Mo currently	There are 132 Level I gaming licenses in Mo currently.	GRAND TOTAL = $13,200
(2)(C) There are 10,862 Level II gaming licenses in Mo. currently.	There are 10,862 Level II gaming licenses in Mo. currently.	GRAND TOTAL = $93,100

III. WORKSHEET

(1)(A)
CURRENT KEY PERSON/KEY PERSON BUSINESS ENTITY COSTS

105 Key Persons/Key Business Entities

	@ $15,000	=	$1,575,000
TOTAL			$1,575,000
GRAND TOTAL		=	$1,575,000

(1)(B)
CURRENT LEVEL I LICENSEES:

132 Level I	@	$1,000	=	$132,000
	TOTAL			$132,000
	GRAND TOTAL		=	$200,000

(1) (C)
CURRENT LEVEL II LICENSEES:

10,862 Level II Licenses				
	@	$75	=	$814,650
	TOTAL			$814,650
	GRAND TOTAL		=	$814,650

(2)(A)
KEY/PERSON/KEY BUSINESS ENTITY RENEWAL COSTS:

105 Key Persons/Key Business Entities				
	@	$200	=	$21,000
	TOTAL			$21,000
	GRAND TOTAL		=	$21,000

(2)(B)
CURRENT LEVEL I LICENSEES:

132 Level I	@	$100	=	$13,200
	TOTAL			$13, 200
	GRAND TOTAL		=	$13,200

(2)(C)
CURRENT LEVEL II LICENSEES:

10,862 Level II Licenses				
	@	$50	=	$93,100
	TOTAL			$93,100
	GRAND TOTAL		=	$93,100

IV. ASSUMPTIONS

(1)(A)
CURRENT KEY PERSON/KEY PERSON BUSINESS ENTITY COSTS

It is assumed that there are 105 key person/key person business entities at a cost of $15,000 per license.

(1)(B)
CURRENT LEVEL I LICENSEES

It is assumed that there are 132 Level I licensees at a cost of $1,000 per license.

(1)(C)
CURRENT LEVEL II LICENSEES

It is assumed that there are 10,862 Level II licensees at a cost of $75 per license.

(2)(A)
KEY/PERSON/KEY BUSINESS ENTITY RENEWAL COSTS

It is assumed that there are 105 key person/key person business entitities at a cost of $500 per license renewed.

(2)(B)
CURRENT LEVEL I LICENSEES

It is assumed that there are 132 Level I licensees at a cost of $100 per license renewed.

(2)(C)
CURRENT LEVEL II LICENSEES

It is assumed that there are 10,862 Level II licensees at a cost of $50 per license renewed.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.390 Occupational License Renewal. The commission is amending sections (1) and (2).

PURPOSE: This amendment establishes the process for occupational license renewal.

(1) *[On or prior to]* **At least sixty (60) days for Level I licensees and** fifteen (15) days **for Level II licensees** before **the first day of** the month of expiration, each occupational licensee shall file for renewal on forms provided by the commission *[(see 11 CSR 45-4.190, Appendix A)]* or authorize a Class A **or Class B** licensee to submit an application for renewal on his/her behalf in accordance with 11 CSR 45-10.110. Alternatively, each occupational licensee may file for renewal as provided in 11 CSR 45-10.110(2).

(2) The director shall have the power to renew any occupational license, provided that if the director intends not to renew an occupational license which the licensee has appropriately requested to have renewed, the director shall notify the commission in writing of his/her intention not to renew and the reasons for his/her decision *[on or prior to]* **at least** ten (10) days before the license expires.

*AUTHORITY: sections 313.004, 313.805 and 313.822, RSMo [1994] **2000 and** 313.800**, RSMo Supp. 2006**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.400 Occupational Licensure Levels. The commission is amending section (2).

PURPOSE: This amendment establishes occupational license levels.

(2) Occupational License Level One (I) includes the following positions or their equivalent:

(A) **Internal** Audit Manager;

(B) **Director of** Casino *[Manager]***Operations**;

(C) *[Chief]* **Director** of Security;

(E) *[Electronic Data Processing Manager]* **IT Manager**;

(I) *[Individual and Business Entity Key Persons; and]* **Table Games Manager;**

(J) Managers responsible for ensuring the integrity of all testing standards and certifications; or

[(J)] **(K)** Any other person or entity who *[conducts]* **engages in** an occupation *[within]* **associated in activities regulated under the riverboat gaming act or** a riverboat gaming operation and is directed by the commission or its director to file a Level One (I) application.

AUTHORITY: sections 313.004 and 313.805, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed March 2, 1995, effective March 12, 1995, expired July 9, 1995. Amended: Filed March 2, 1995, effective Aug. 30, 1995. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 7, 2001, effective June 30, 2002. Amended: Filed Dec. 3, 2007.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.410 Identification Badge Requirements. The commission is amending sections (1) and (2).

PURPOSE: This amendment establishes requirements for identification badges.

(1) **All employees and** *[O]***o**ccupational licensees other than **key person/key person** business entity *[key person]* licensees shall at all times while performing the functions of their positions display **on their person in a clearly visible manner** a valid, riverboat-issued**,** casino access badge**, unless a waiver has been granted in writing for a particular job function**. No casino access badge granting access to any riverboat gaming operation may be held by any person unless that person has been authorized for such access by the Class A **or Class B** applicant or licensee of the riverboat gaming operation for which the badge is to be issued. Each Class A **or Class B** applicant or licensee must notify the commission that such authorization has been granted before any identification badge may be issued to the person. Each Class A **or Class B** applicant or licensee must notify the commission within ten (10) days if any such authorization has been revoked.

(2) The casino access badge shall—

(F) Provide on the reverse side a line for the employee's full name*[, Social Security number]* and date of birth; and

(G) Provide a space for color coded backgrounds for use around the occupational field or title on the front side as follows:

1. Solid white—non-casino occupations: all *[/]***L**evel II or higher personnel whose job responsibilities do not require access inside the casino turnstiles or to other gaming areas, including but not limited to**,** cages and count rooms;

2. Solid green—surveillance occupations: all personnel whose job responsibilities include the operation, maintenance, and installation of surveillance equipment and the supervision of those surveillance personnel;

3. Solid red—security and guest safety occupations: all personnel whose job responsibilities include the security of the casino facilities, safety of customers and employees, rendering of medical aid and supervision of security personnel;

4. Red diagonal stripes—gaming occupations: all personnel whose job responsibilities are directly related to conducting a gambling game or the repair of a gaming related device, including but not limited to**,** cage department employees, casino operations employees, count department employees, revenue audit employees, slot department employees, and table game department employees;

5. Solid blue—non-gaming occupations: all personnel whose job responsibilities require access inside the casino turnstiles but are not directly related to gaming activities and not handling chips or tokens, including but not limited to**,** environmental services or housekeeping employees; food and beverage employees; maintenance, marine operations or boat operations employees; retail employees, ticketing employees*[, marketing employees, management information systems or information technology employees, and pit clerk and pit administration employees]*; and

6. Red horizontal stripes—other non-gaming occupations including but not limited to non-gaming personnel responsible for clerical duties requiring limited access to the gaming pits and other non-gaming areas for the purposes of, for example, player tracking or other marketing duties; the installation, operation, or repair of information systems equipment; pit clerks; pit administrators; table games assistants; marketing; and all information systems personnel and related supervisors.

AUTHORITY: sections 313.004 and 313.850, RSMo 2000 ***and*** *313.800****, RSMo Supp. 2006****. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed Dec. 3, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.420 Occupational License. The commission is amending section (1).

PURPOSE: The commission proposes to provide for a commission-issued occupational license badge distinct from riverboat licensee-issued casino access badges.

(1) Occupational licensees other than **key person/key person** business entity *[key person]* licensees shall at all times while performing the functions of their positions display **in a clearly visible manner,** a valid, commission-issued occupational license badge.

AUTHORITY: sections 313.004 and 313.850, RSMo 2000 ***and*** *313.800****, RSMo Supp. 2006****. Original rule filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 7, 2001, effective June 30, 2002. Amended: Filed Dec. 3, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.020 Licensee and Applicant's Duty to Disclose Changes in Information. The commission is amending section (1).

PURPOSE: This amendment establishes the applicant's duty to disclose changes in information.

(1) All licensees and applicants for Class A, **Class B,** supplier, **key person/key person business entity** or Level I *[and key person]* occupational licenses issued by the commission shall have a continuing duty to disclose in writing, within thirty (30) calendar days, any material change in the information provided in the application forms and requested materials submitted to the commission. Any change in information that is not material must be disclosed to the commission during the licensee's next subsequent application for license renewal.

AUTHORITY: sections 313.004, 313.805, and 313.807, RSMo 2000 and 313.800, RSMo Supp. ***[2005] 2006****. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994.*

Amended: Filed April 28, 2004, effective Dec. 30, 2004. Amended: Filed March 21, 2006, effective Nov. 30, 2006. Amended: Filed Dec. 3, 2007.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.030 Licensee's Duty to Report and Prevent Misconduct. The commission is adding sections (6) and (7).

PURPOSE: This amendment ensures that licensees shall have a working knowledge of gaming statutes and regulations.

(6) Class A, Class B, and supplier licensees shall ensure that all agents and occupational licensees employed by said licensees shall have a working knowledge of Missouri Gaming Statutes, Chapter 313.800, RSMo et seq., *Code of State Regulations*, Title 11 Division 45, the commission's published minimum internal control standards and the licensee's system of internal controls as they pertain to the responsibilities and limitations of their job.

(7) All occupational licensees shall have a working knowledge of Chapter 313.800 et seq., *Code of State Regulations*, Title 11 Division 45, RSMo and the internal controls of the Class A or B licensees for whom they are currently employed by as they pertain to the responsibilities and limitations of their job.

*AUTHORITY: sections 313.004, 313.805, 313.807 and 313.812, RSMo 2000 **and** 313.800, **RSMo Supp. 2006**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Jan. 23, 2004, effective Aug. 30, 2004. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.040 Prohibition and Reporting of Certain Transactions. The commission is amending sections (4), (7), (8) and (12) and adding section (13).

PURPOSE: This amendment prohibits certain transactions and establishes the procedures for reporting of certain transactions.

(4) Any reporting party must notify the commission of its intention to consummate any of the following transactions at least fifteen (15) days prior to such consummation, and the commission may reopen the licensing hearing of the applicable gaming licensee prior to or following the consummation date to consider the effect of the transaction on the gaming licensee's suitability:

(B) Any private incurrence of debt equal to or exceeding one (1) million dollars by a gaming licensee that is the holder of a Class A **or Class B** license or any holding company that is affiliated with the holder of a Class A **or Class B** licensee;

(C) Any public issuance of debt by a gaming licensee that is the holder of a Class A **or Class B** license or any holding company that is affiliated with the holder of a Class A **or Class B** licensee; and

(7) Any gaming licensee that is the holder of a Class A **or Class B** license must notify the commission of its intention or the intention of any entity affiliated with it to consummate any transaction that involves or relates to the gaming licensee and has a dollar value equal to or greater than one (1) million dollars; provided that such notice must be given no later than seven (7) days following such consummation.

(8) The following definitions apply to the terms used in 11 CSR 45-10.040:

(C) Gaming licensee: A person *[which]* **who** holds a Class A *[license]*, **Class B, key person/key business entity** or supplier's license;

(D) Holding company: A person **or entity** which, directly or indirectly, or acting in concert with one (1) or more other persons, owns, controls, or holds twenty-five percent (25%) or more of the outstanding ownership interest of any gaming licensee or holding company;

(F) Private incurrence of debt: An agreement or series of related agreements to obtain money or property in exchange for the promise or obligation to make deferred payments therefore, including but not limited to, loans and credit facilities, but not including ordinary commercial installment contracts with time payment schedules of less than one hundred eighty (180) days;

(12) Upon any **voluntary** change in control, the license held by the gaming licensee that is the subject of the change in control or that is a direct or indirect subsidiary of the holding company that is the subject of the change in control, shall automatically become null and void and of no legal effect, unless the commission has approved such change in control by vote of the commissioners prior to its consummation.

(13) Upon an involuntary change of control (including but not limited to death, appointment of a guardian by a court of

competent jurisdiction, or involuntary bankruptcy) the executive director with the concurrence of the chairman may within ten (10) days extend the license held by the gaming licensee that is the subject of the change in control or that is a direct or indirect subsidiary of the holding company that is the subject of the change in control, until the next commission meeting, at which time the commission may extend the license until such time as a change of control is approved. In the event the executive director does not extend the license within ten (10) days of the involuntary change of control or the commission does not extend it at their next meeting the license shall become null and void.

*AUTHORITY: sections 313.004, 313.805, 313.807 and 313.812, RSMo [1994] **2000** and 313.800, RSMo Supp. [1997] **2006**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED RULE

11 CSR 45-10.051 Relocation of Gaming Boats

PURPOSE: This rule regulates the movement of gaming boats.

(1) Except for minimal movement resulting from concerns of health, safety or maintenance issues, any relocation of a gaming boat to another location shall result in the license of that boat becoming null and void and require a new application and selection process. Applicants shall pay all applicable application and licensing fees.

AUTHORITY: section 313.805, RSMo 2000. Original rule filed Dec. 3, 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 a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.055 Certain Transactions Involving Slot Machines. The commission is amending sections (2) and (3).

PURPOSE: This amendment regulates certain transactions involving slot machines.

(2) No Class A **or Class B** licensee may—

(A) Sell, transport or otherwise transfer or turn over possession of any slot machine located in the state of Missouri to any person or entity other than a supplier licensee **without the commission's prior written approval**; or

(3) No supplier licensee may—

(A) Sell, transport or otherwise transfer or turn over possession of any slot machine located in the state of Missouri to any person or entity other than another supplier licensee, a Class A **or Class B** licensee or a Class A **or Class B** applicant that has been selected by the commission for investigation pursuant to 11 CSR 45-4.060 **without the commission's prior written approval**; or

(B) Conduct or negotiate a transaction affecting or designed to affect ownership, custody or use of any slot machine located or to be located in the state of Missouri so that such ownership, custody or use could be held or exercised in the state of Missouri by any person or entity other than another supplier licensee, a Class A **or Class B** licensee or a Class A **or Class B** applicant that has been selected by the commission for investigation pursuant to 11 CSR 45-4.060.

*AUTHORITY: sections 313.004, 313.805 and 313.807, RSMo [1994] **2000 and** 313.800, RSMo Supp. [1997] **2006**. Original rule filed April 18, 1996, effective Dec. 30, 1996. Amended: Filed Jan. 21, 1997, effective Aug. 30, 1997. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.060 Distributions. The commission is amending section (1).

PURPOSE: This amendment establishes the procedures for licensees' distribution of anything of value.

(1) No withdrawals of capital, loans, advances or distribution of any type of assets in excess of five percent (5%) of accumulated earnings of a Class A **or Class B** licensee, which is a C corporation under the *Internal Revenue Code* and no withdrawals of capital, loans, advances or distribution of any type of assets in excess of five percent (5%) of after-tax profits of a Class A **or Class B** licensee which is a sole proprietorship, partnership, limited partnership, limited liability company or S corporation under the *Internal Revenue Code* to anyone with an ownership interest in the licensee shall occur without prior commission approval.

*AUTHORITY: sections 313.004 and 313.805, RSMo [1994] **2000 and** 313.800, **RSMo Supp. 2006**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.080 Fair Market Value of Contracts. The commission is amending section (1).

PURPOSE: This amendment establishes requirement for fair market value of contracts.

(1) No holder of a Class A **or Class B** license shall enter into a contract relating to its licensed activities for consideration in excess of fair market value.

*AUTHORITY: sections 313.004, 313.805 and 313.807, RSMo [1994] **2000** and 313.800, RSMo Supp. [1997] **2006**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.090 Owner's and Supplier's Duty to Investigate Job Applicants. The commission is amending section (1).

PURPOSE: This amendment establishes licensees' duty to investigate background of job applicants.

(1) The holder of a Class A **or Class B** license or supplier's license shall investigate the background and qualifications of all applicants for jobs. No licensee may solely rely on the commission's granting an occupational license as the sole criterion for hiring a job applicant.

*AUTHORITY: sections 313.004, 313.805, 313.807 and 313.812, RSMo [1994] **2000** and 313.800, RSMo Supp. [1997] **2006**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.110 Licensee's Duty to Report Occupational Personnel. The commission is amending sections (1) and (2).

PURPOSE: This amendment establishes a procedure for the commission to receive notice of an occupational license applicant or licensee's intent to go forward with the licensing or renewal process.

(1) Each holder of a Class A **or Class B** license or supplier's license shall file a report with the commission on or prior to the fifteenth day of each calendar month identifying all of the personnel associated with that licensee who, as of the first day of the reporting month, hold positions requiring an occupational license or a temporary occupational license issued by the commission and whose expiration date(s) for such license occurs within the following calendar month.

(A) The report must be submitted in *[written form and on diskette in]* a format prescribed by the commission**.** *[supplying the following information for each individual:]*

[1. Person's legal name;
2. License expiration month;
3. Date of birth;
4. Social Security number; and
5. License number.]

(2) Occupational licensees who transfer from one Class A **or Class B** licensee to another Class A **or Class B** licensee between the fifteenth day of the month and the last day of the month prior to expiration, and those who transfer during the expiration month, whose occupational licenses have not been renewed, will be billed to the Class A **or Class B** licensee receiving the occupational licensee.

*AUTHORITY: sections 313.004, 313.805 and 313.822, RSMo [1994] **2000 and** 313.800, **RSMo Supp. 2006**. Emergency rule filed June 25, 1996, effective July 5, 1996, expired Dec. 31, 1996. Original rule filed June 25, 1996, effective Feb. 28, 1997. Amended: Filed July 2, 1997, effective Feb. 28, 1998. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Emergency amendment filed Oct. 4, 2000, effective Oct. 14, 2000, expired April 11, 2001. Amended: Filed Oct. 4, 2000, effective April 30, 2001. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.115 List of Barred Persons. The commission is amending sections (1) and (2).

PURPOSE: This amendment establishes the procedure to bar persons for life from excursion gambling boats who have committed any of the acts listed under section 313.830(4), RSMo.

(1) There is hereby created a "List of Barred Persons" which shall consist of those persons who have been convicted of an act under section 313.830(4), RSMo *[and]* **or** have been placed on such list by the commission.

(2) Any Class A **or Class B** licensee or its agent or employee that identifies a person present on an excursion gambling boat and has knowledge that such person is included on the List of Barred Persons shall immediately notify or cause to notify the commission and the Class A **or Class B** licensee's senior security officer on duty. Once it is confirmed that the person is on the list, the Class A **or Class B** licensee shall remove the person from the excursion gambling boat. After the Class A **or Class B** licensee has removed the barred person from the excursion gambling boat, the licensee shall report the incident to a prosecutor having jurisdiction over the matter and request charges be filed for criminal trespassing. A Class A **or Class B** licensee or its agent(s) or employee(s) may be disciplined by the commission if it can be shown by a preponderance of the evidence that the Class A **or Class B** licensee or its employee(s) or agent(s) knew a person on the List of Barred Persons was present on the excursion gambling boat and despite such knowledge, failed to follow the procedures required by this rule.

*AUTHORITY: sections 313.004, 313.805 and 313.830(4), RSMo [1994] **2000**. Original rule filed July 2, 1997, effective Feb. 28, 1998. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 3, 2007.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.150 Child Care Facilities—License Required. The commission is amending the purpose and sections (1)–(3).

PURPOSE: This amendment assures that Class B licensees offering child care facilities are properly licensed and regulated for health and safety.

*PURPOSE: The rule assures that child care facilities offered on property owned by Class A **or Class B** licensees are properly licensed and regulated for health and safety.*

(1) Any Class A **or Class B** licensee that provides, either directly or indirectly, a child care facility that is determined by the commission to be within or adjacent to the structure housing its excursion gambling boat or within or adjacent to the structure serving as the boarding area for its excursion gambling boat, shall require that such child care facility is licensed by the Missouri Department of Health **and Senior Services**. For the purposes of this regulation, a child care facility is defined as—

(2) A Class A **or Class B** licensee is deemed to be a direct or indirect provider of a child care facility if—

(3) Class A **or Class B** licensees that enter into contracts with a person(s) who provides a child care facility or who lease space to a person(s) who provides a child care facility, shall include provisions in the contract or lease which allow the licensee to terminate the contract or lease if the child care facility provider's license from the Missouri Department of Health **and Senior Services** is suspended, revoked or fails to be maintained in good standing.

AUTHORITY: sections 313.805 and 313.812, RSMo [1994] 2000. Emergency rule filed Dec. 1, 1999, effective Dec. 11, 1999, expired June 7, 2000. Original rule filed Dec. 1, 1999, effective June 30, 2000. Amended: Filed Dec. 3, 2007.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for February 5, 2008 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 1—Insurance Producers

PROPOSED RULE

20 CSR 700-1.005 Scope and Definitions

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Applicability of Rules. The rules in this chapter apply to insurance producers transacting business in this state including those licensed under section 375.018, RSMo. The rules shall be read together with Chapter 536, RSMo.

(2) Definitions.

(A) "Cash premium payment," a premium payment made in the form of currency.

(B) "Certificate of Authority," the whole or part of any certificate of approval or charter granted by the director for any insurance company, insurer, association, health services corporation, health maintenance organization, or other legal entity insuring risk.

(C) "Covered annuity," a fixed, indexed or variable annuity that is individually solicited, whether the contract is classified as an individual or group annuity, except the following:

1. Any federal covered security as defined in Section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(2)), as amended;

2. Any annuity used to fund:

A. An employee pension or welfare benefit plan that is covered by ERISA;

B. Any tax-qualified, employer sponsored retirement or benefit plan that meets the requirements of *Internal Revenue Code* Sections 401(a), 401(k), 403(b), 408(k) or 408(p);

C. Any government or church plan that meets the requirements of *Internal Revenue Code* Section 414;

D. Any government or church welfare benefit plan, or any deferred compensation plan of a state or local government or tax exempt organization, that meets the requirements of *Internal Revenue Code* Section 457;

E. Any nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

F. Unless in the case of any such plan, a producer is making a recommendation to an individual plan participant;

3. Any annuity transaction used to fund settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

4. Any annuity used to fund formal prepaid funeral contracts.

(D) "Director," the director of the department.

(E) "Department," the Department of Insurance, Financial Institutions and Professional Registration.

(F) "ERISA," the Employee Retirement and Income Security Act of 1974 (29 U.S.C. Section 1101 *et seq.)*.

(G) "FINRA," the Financial Industry Regulatory Authority.

(H) "Insurer," an insurance company, fraternal benefit society, health services corporation, health maintenance organization, prepaid health plan or any similar organization authorized to transact business in Missouri.

(I) "License," the whole or part of any permit, registration, membership, statutory exemption or any other form of permission granted by the director to any person.

(J) "Licensee," a person licensed by Missouri to act as an insurance producer.

(K) "NAIC," the National Association of Insurance Commissioners.

(L) "NIPR," the National Insurance Producer Registry.

(M) "Personal insurance policy," any liability or risk-assuming policy, contract, subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer, for the purpose of providing personal, noncommercial insurance coverage to an individual or family on a nongroup basis, including individual or family automobile, homeowners, life, annuity, health, property or casualty coverage.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 30, 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: A public hearing will be held on this proposed rule at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room

530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.010 Insurance Producers' Examination and Licensing Procedures and Standards. The department is adding a new section (1) and (2), amending and renumbering original sections (1), (3) and (5) and deleting sections (2), (4) and (6).

PURPOSE: This amendment updates the licensing requirements for insurance producers, specifies the application forms and fees for insurance producers and reflects the change in name of the department.

PURPOSE: This [regulation] rule ***specifies application forms and fees for insurance producers and*** *explains insurance producer[s'] licensing standards and procedures. [This regulation is promulgated pursuant to section 374.045, RSMo and implements sections 375.012–375.025, RSMo.]*

(1) Application Forms. The following forms have been adopted and approved for filing with the department:

(A) The Uniform Application for Individual Insurance Producer License form (Form UA-IP), adopted by the NAIC on May 10, 2006, or any form which substantially comports with the specified form; and

(B) The Uniform Application for Business Entity Insurance Producer License form (Form UA-BEP), adopted by the NAIC on May 10, 2006, or any form which substantially comports with the specified form.

(2) Application and Fees. Application for licensure as an individual insurance producer or business entity producer shall contain the information/requirements outlined in sections 375.015 to 375.018, RSMo and this rule and may be submitted by electronic means to the National Insurance Producer Registry (NIPR) or other system(s) as the director may designate.

(A) Initial Licensure.

1. Resident Individual Insurance Producer.

A. A completed Form UA-IP; and

B. One hundred dollar ($100) application fee.

2. Nonresident Individual Insurance Producer.

A. A completed Form UA-IP; and

B. One hundred dollar ($100) application fee.

3. Resident Business Entity Insurance Producer.

A. A completed Form UA-BEP;

B. One hundred dollar ($100) application fee;

C. List of Missouri-licensed producers conducting business on behalf of the business entity; and

D. Domestic corporations, limited liability companies, or limited liability partnerships must include a certificate of good standing, certificate of incorporation, or certificate of organization issued by the secretary of state and dated within the past year. Partnerships must include a copy of the fictitious name registration as issued by the secretary of state.

4. Nonresident Business Entity Insurance Producer.

A. A completed Form UA-BEP;

B. One hundred dollar ($100) application fee; and

C. List of Missouri-licensed producers conducting business on behalf of the business entity.

5. Organizational Credit Business Entity.

A. A completed Form UA-BEP;

B. One hundred dollar ($100) application fee;

C. A list of employees to whom the business entity has paid, within the preceding twelve (12) months, any salary or commission for the sale, solicitation or negotiation of credit insurance contracts; and

D. An additional fee of eighteen dollars ($18) per employee with whom the business entity has contracted to pay any salary or commission for the sale, solicitation or negotiation of credit insurance contracts following licensure.

(B) Renewal Application.

1. Individual Producers.

A. An updated Form UA-IP. If applying for renewal through NIPR, the application is deemed submitted at the time of fee payment pursuant to the producer's continuing duty to amend the application in sections 375.018 and 375.141, RSMo; and

B. One hundred dollar ($100) application fee.

2. Business Entity Producers.

A. An updated Form UA-BEP. If applying for renewal through NIPR, the application is deemed submitted at the time of fee payment pursuant to the producer's continuing duty to amend the application in sections 375.018 and 375.141, RSMo;

B. One hundred dollar ($100) application fee; and

C. List of Missouri-licensed producers conducting business on behalf of the business entity.

3. Organizational Credit Business Entity.

A. An updated Form UA-BEP. If applying for renewal through NIPR, the application is deemed submitted at the time of fee payment pursuant to the producer's continuing duty to amend the application in sections 375.018 and 375.141, RSMo;

B. One hundred dollar ($100) application fee;

C. An updated list of employees to whom the business entity has paid, within the preceding twelve (12) months, any salary or commission for the sale, solicitation or negotiation of credit insurance contracts; and

D. An additional fee of eighteen dollars ($18) per employee with whom the business entity has contracted to pay any salary or commission for the sale, solicitation or negotiation of credit insurance contracts following licensure.

(C) All fees must be paid by cashier's check, money order, company check or electronic funds transfer. Fees submitted with electronic applications shall be paid by electronic funds transfer, credit card or other methods approved by any designee under this rule.

(D) Application and/or renewal fees are not refundable if the application is refused by the director or withdrawn by the applicant.

[(1)] **(3)** Examination Procedures.

(A) Before an individual may be licensed to sell certain *[classes]* **lines** of insurance, **the applicant** *[s/he]* must first take and pass an examination testing both the individual's knowledge regarding the *[class(es)]* **line(s)** of insurance the individual proposes to sell and the individual's knowledge of the insurance statutes and regulations. The examination must be taken and passed prior to submitting an application for a license to the *[Department of Insurance]* **department**. The *[classes]* **lines** of insurance for which an examination is

required prior to licensure are life insurance, accident and health insurance, property insurance, casualty insurance, **variable life insurance and variable annuities,** *[and]* personal lines **insurance, crop insurance, title insurance and prepaid legal services**.

(B) The department contracts with an independent testing service, which administers the examinations referred to in subsection (1)(A). In order to take an examination, an individual must register and pay the appropriate fee to the independent testing service designated by the department. Instructions may be obtained from the independent testing service or the *[Department of Insurance]* **department**.

(C) Once an individual has passed an examination, *[s/he]* **the applicant** has one (1) year from the date of the examination in which to submit an application for licensure to the *[Department of Insurance]* **department**. Failure to submit an application within this time period will necessitate the individual taking and passing the examination again before *[s/he]* **the applicant** may be licensed.

[(2) Application Required.

(A) The application required by section 375.015, RSMo shall be completed on the form approved by the director of insurance by each applicant for licensure before any license is issued.

(B) Each application shall be accompanied by an application fee of one hundred dollars ($100).

(C) All fees must be paid by money order, cashier's check, company check or business entity check. Fees for electronic applications may be paid by credit card or electronic funds transfer. No fee shall be refundable.

(D) A license will be issued only when the applicant has satisfactorily completed the requirements of sections 375.015–375.018, RSMo and of this regulation and the director has not refused to issue the license pursuant to section 375.141.2, RSMo.]

[(3)] **(4)** *[Special Licenses]* **Other Lines of Insurance Authority**. **In addition to the lines of authority authorized by section 375.018, RSMo, producers may be granted licensure in the following lines of insurance pursuant to the authority granted in section 375.018.1(8), RSMo**:

(A) *[Variable Contracts. Any licensed life insurance producer may be licensed to sell variable annuities and variable life insurance policies upon the submission of an application for same and a copy of the insurance producer's National Association of Securities Dealers registration or Securities and Exchange Commission certification, and the one hundred dollar ($100) application fee.]* **Title Insurance. Pursuant to section 381.115, RSMo and 20 CSR 700-8.100 title agents may be licensed as individual insurance producers and title agencies may be licensed as business entity producers.**

[(B) Title. A license to sell title insurance shall be issued to any natural person pursuant to section 375.018, RSMo upon receipt of a completed application and the one hundred dollar ($100) application fee.

(C) Credit. A license to sell credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability and guaranteed automobile protection (GAP) shall be issued pursuant to section 375.018, RSMo, to any natural person upon receipt of a completed application and the one hundred dollar ($100) application fee.]

[(D)] **(B)** Travel **Insurance**. *[A license to write insurance policies covering the risk of travel shall be issued pursuant to section 375.018, RSMo, to any natural person upon receipt of a completed application and the one hundred dollar ($100) application fee.]* **An application for license to sell travel insurance shall comply with the requirements of section (2) of this rule.**

(C) Crop Insurance. An application for license to sell crop insurance pursuant to section 375.018.2, RSMo shall comply with the requirements of section (2) of this rule.

(D) Prepaid Legal. An application for license to sell prepaid legal service plans pursuant to section 379.901, RSMo shall comply with the requirements of section (2) of this rule.

[(4) Natural persons who are not residents of Missouri may be licensed as insurance producers in this state upon receipt of a completed application, the certification of the proper official of the insurance producer's resident state that s/he is licensed in that state for the lines for which s/he wishes to be licensed in this state, provided equivalent lines are licensed in this state, and a one hundred dollar ($100) application fee.]

(5) *[The biennial renewal fee for an insurance producer's license is one hundred dollars ($100). An insurance producer's license shall be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 375.141, RSMo. If the biennial renewal fee for the license is not paid by the expiration date the license terminates. All fees must be paid by money order, cashier's check, company check or business entity check. Fees for electronic renewals may be paid by credit card or electronic funds transfer. No fee shall be refundable.* **Individuals applying for a nonresident producer license who have not been licensed in their home state for the same line(s) of authority as applying for in this state shall take and pass the appropriate Missouri-specific examination(s), if applicable, for licensure in those lines before a license may be granted.**

[(6) Personal Lines. A license to sell personal lines insurance shall be issued to any natural persons pursuant to section 375.018, RSMo, upon receipt of a completed examination, proof of passing score on examination, and a one hundred dollar ($100) application fee. A personal lines license shall authorize an individual to sell property and casualty insurance providing coverage for individuals and families for noncommercial purposes. An individual holding a personal lines license shall complete, during each two (2)-year period, the continuing education requirements for a property and casualty license as defined in section 375.020, RSMo.]

AUTHORITY: section 374.045, RSMo. This rule was previously filed as 4 CSR 190-12.020. Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Nov. 30, 2007.*

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

PRIVATE COST: This proposed amendment will cost private entities in excess of five hundred dollars ($500) annually. Compliance will cost new insurance producers approximately $39,543 or $49 per new insurance producer.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, MO. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara

Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	**20 CSR 700-1.010 Insurance Producers' Examination and Licensing Procedures and Standards**
Type of Rulemaking	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	**Classifications by types of the business entities which would likely be affected:**	**Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:**
807 new Insurance Producers		807 Insurance Producers x $49 = $39,543 per year

III. WORKSHEET & ASSUMPTIONS

This proposed amendment adds an examination requirement for producers to be licensed to sell title insurance. Currently there are 4,804 individual producers licensed for the title line of authority. These individuals will not be impacted by the new requirement. The department licenses an average of 807 new producers each year in the title line of authority. The cost of an examination is $49.00 with the contracted testing provider. Estimated annual cost of the title examination requirement:

807 x $49 = $39,543.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 1—Insurance Producers

PROPOSED RULE

20 CSR 700-1.012 Variable Life and Variable Annuity Contract Examination

PURPOSE: This rule prescribes the examination requirements for applicants for qualification for the variable life and variable annuity line of authority.

(1) No insurance producer is authorized to solicit, offer for sale, or sell any variable life or variable annuity contract in this state, unless prior to making any solicitation, offer or sale of this contract, the producer is qualified under the variable life and variable annuity line of authority as required under 375.018.1(5), RSMo.

(2) The applicant for qualification under the variable life and variable annuity line of authority shall have passed either the Series 6 or Series 7 examination administered by Financial Industry Regulatory Authority (FINRA).

AUTHORITY: sections 374.045, RSMo 2000, 375.016 and 375.018, RSMo Supp. 2006, and 376.309, RSMo, SB 66, Ninety-fourth General Assembly, First Regular Session, (2007). Original rule filed Nov. 30, 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: A public hearing will be held on this proposed rule at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.020 *[Activities Requiring Licensure]* ***Transacting Business*** **as** ***an*** **Insurance Producer**. The department is amending the title, purpose, sections (1), (3) and (4) and deleting sections (5).

PURPOSE: This rule amends sections (1), (3), (4) and (5) of the rule to clarify those activities that do or do not require licensure as an insurance producer as well as the supervisory responsibilities of a licensed insurance producer.

PURPOSE: This rule effectuates and aids in the interpretation of the definition of insurance producer as stated in section 375.012, RSMo by [outlining those] ***describing without limitation by enumeration*** *activities for which licensure is required.*

(1) Solicitation of an Insurance Contract.

(C) Solicitation of an insurance contract does not include the following activities:

1. Dispensing brochures and other general information so long as there is no conversation relating to the terms of an insurance contract;

2. Disseminating buyer's guides, applications for coverage, coverage selection forms, or other similar forms in response to a request from prospective or current policyholders **so long as there is no conversation relating to the terms of an insurance contract**;

3. Receiving and recording information from a policyholder to give to an insurance producer for his or her review and response; **or**

4. Scheduling appointments with insurance producers to discuss insurance.

(3) Sale of an Insurance Contract.

(C) Sale of an insurance contract does not include the following activities:

1. Receiving requests for coverage for transmittal to a licensed insurance producer or for processing through an automated system developed and maintained under the supervision of an insurer or licensed insurance producer;

2. Receiving and recording information from an applicant or policyholder and preparing an application for insurance pursuant to instructions from and for the review of an insurance producer;

3. Obtaining underwriting information from credit agencies, the Department of Revenue, and other insurance agencies and companies;

4. Receiving and recording information from an applicant or policyholder and preparing an application for an insurance producer's review and signature, all binders, certificates, endorsements, identification cards, or policies pursuant to instructions from the insurance producer; **or**

5. Receiving premiums at the recorded place of business where the payment is being made on a binder, endorsement, or existing policy.

(4) Duty to Have Insurance Producer at Each Place of Business.

(B) A licensed insurance producer *[shall be held responsible for all insurance-related activities performed]* **may be found to be materially aiding any acts in violation of law engaged in** by an unlicensed individual under the supervision of that insurance producer.

[(5) Discipline for Violation. The director of the Missouri Department of Insurance may institute disciplinary action for violations of this regulation in accordance with the provisions of section 375.141, RSMo and any other applicable law.]

AUTHORITY: sections 374.045, RSMo 2000 and 375.012 RSMo [Supp. 2001. 381.031.17, RSMo Supp. 1989.] ***SB 66, Ninety-fourth General Assembly, First Regular Session, (2007).*** *This rule was previously filed as 4 CSR 190-12.025. Original rule filed Dec. 1, 1989, effective June 30, 1990. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.025 Conduct of the Business of Insurance Over the Internet. The department is amending sections (1) and (2) of this rule.

PURPOSE: This amendment contains a correction in spelling.

(2) Each *[website]* **web site** or home page of insurance producers or insurance companies shall contain an address and telephone number for contact with the insurance producers or insurance companies.

(3) Each *[website]* **web site** or home page of insurance producers or insurance companies shall contain a notice of the states in which they are authorized or licensed to do the business of insurance.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed July 12, 2002, effective Feb. 28, 2002. Amended: Filed Nov. 30, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
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PROPOSED RESCISSION

20 CSR 700-1.030 Certification Letters Submitted with Insurance Producer's License Applications. This regulation provided the definition of a certification letter and aided and effectuated licensing standards and procedures as outlined in section 375.017.2, RSMo.

PURPOSE: This licensing document is no longer required.

AUTHORITY: sections 374.045, 375.014, 375.016, 375.017, RSMo Supp. 2001, and 375.018, RSMo Supp. 2002. This rule was previously filed as 4 CSR 190-12.026. Original rule filed Jan. 11, 1990, effective May 1, 1990. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Rescinded: Filed Nov. 30, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rescission at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rescission until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.040 Clearance Letters. The department is amending section (1), renaming part of section (1) as a new section 2 and renumbering the remaining sections to this rule.

PURPOSE: To clarify the intent of this rule and to require more contemporaneous authority from other states.

(1) *[Definition.]* **As used in this rule, "***[C]***learance letter"** *[as used in this rule]* is a statement from another state certifying that

the insurance producer held, within *[one (1) year next]* **ninety (90) days** proceeding the date of application, the same kind of license as applied for in this state.

(2) The statement also includes the signature of the head of the insurance regulatory agency of the state from whom the insurance producer held the same kind of license and his/her official seal.

*[(2)]***(3)** A clearance letter submitted with an application for a resident license must be dated no earlier than *[six (6) months]* **ninety (90) days** prior to the date the application is received by the *[Missouri department of insurance]* **department**.

*[(3)]***(4)** Failure to submit a properly dated clearance letter *[will]* **may** cause all application materials to be returned to the insurance producer.

*AUTHORITY: sections [375.045] **374.045**, RSMo 2000, 375.012, **RSMo, SB 66, Ninety-fourth General Assembly, First Regular Session (2007) and** 375.014, 375.016, 375.017, [RSMo Supp. 2001] and 375.018**,** RSMo Supp. [2002] **2006**. Original rule filed Jan. 11, 1990, effective May 1, 1990. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.100 Producer Service Agreements. The department is amending section (1), renumbering it as sections (1), (2) and (3) and amending Exhibit A.

PURPOSE: This amendment makes several clarifying changes.

(1) *[Producer Service Agreements.*

[(A)] **A producer service agreement may be used to establish compensation.** The form set forth in Exhibit A is approved for use as specified in section 375.116, RSMo. Substantially equivalent forms may be used where they contain other provisions and do not affect the content *[of]* **as provided in** Exhibit A. The *[P]***p**roducer *[S]***s**ervice *[A]***a**greement, which is included herein, must be a separate document from any other form or contract.

*[(B)]***(2)** Each *[P]***p**roducer *[S]***s**ervice *[A]***a**greement may cover multiple contracts of insurance negotiated or procured for the same insured or prospective insured where the insurance producer's compensation falls within the requirements of section 375.116.3, RSMo. Each insurance producer shall retain one (1) copy of the *[P]***p**roducer *[S]***s**ervice *[A]***a**greement in *[his/her]* **the producer's** office for three (3) years and deliver one (1) copy to the insured.

*[(C)]***(3)** The *[P]***p**roducer *[S]***s**ervice *[A]***a**greement shall contain a list of the policies it covers.

Exhibit A
Missouri Producer Service Agreement

1. The undersigned insured hereby engages the services of _____, a licensed Missouri insurance producer, license #_____, for the purpose of securing, negotiating and procuring the placement of the following described insurance coverages and to assist the undersigned in the preparation of any and all applications, underwriting data, and other information required by an insurer for the purposes of issuing an insurance policy within this state. The insurance coverage requested is: *(Here describe in detail the coverage to be effected.)*

2. The undersigned insured authorizes the insurance producer to commit to a maximum premium of not more than _____ _____ for the above-stated coverage(s). *(If multiple contracts of insurance are to be procured for the same insured or prospective insured, a separate maximum may be stated for each contract covered by this agreement.)*

The undersigned insured agrees to pay as compensation to the insurance producer, above and in addition to the commission received from the insurer, for the various services of the insurance producer a fee of not more than $_____. *(If multiple contracts of insurance are to be procured for the same insured or prospective insured, a separate producer fee may be stated for each contract covered by this agreement.)*

3. A brief description of those services performed and not described in paragraph 1. above is:_____

_____

_____

_____

This agreement is in furtherance of section 375.116, RSMo, and *[Missouri Department of Insurance]* Regulation 20 CSR 700-1.100.

Dated:_____
(Insured)

Dated:_____
(Insurance Producer)

*AUTHORITY: sections 374.045, RSMo 2000 and 375.071–375.136, RSMo [2000 and] Supp. [2001] **2006**. This rule was previously filed as 4 CSR 190-12.080. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. Amended: Filed Oct. 14, 1981, effective Jan. 15, 1982. Amended: Filed Jan. 17, 1986, effective June 28, 1986. Amended: Filed Oct. 15, 1996, effective May 30, 1997. Amended: Filed April 12, 1999, effective Nov. 30, 1999. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Amended: Filed Nov. 30, 2007.*

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

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

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Licensing
Chapter 1—Insurance Producers

PROPOSED RESCISSION

20 CSR 700-1.110 Licensing of Business Entity Insurance Producers. This regulation explained business entity insurance producer licensing standards and procedures in Missouri.

PURPOSE: This rule is being rescinded as the requirements for business entity producer licensing are included in 20 CSR 700-1.010.

AUTHORITY: sections 374.045, 375.013, 375.041, RSMo 2000, 375.012, 375.014, 375.016, 375.017, 375.019, 375.020, 375.022, 375.025, 375.031, 375.033, 375.035, 375.037, 375.039, 375.046, 375.051, RSMo Supp. 2001, 375.018, RSMo Supp. 2002. This rule was previously filed as 4 CSR 190-12.090. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rescission at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rescission until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
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PROPOSED AMENDMENT

20 CSR 700-1.140 Minimum Standards of Competency and Trustworthiness for Insurance Producers Concerning Personal Insurance Transactions. The department is deleting section (1), renumbering the subsequent sections and deleting section (7).

PURPOSE: This amendment moves definitions to 20 CSR 700-1.050 and corrects several cross-references.

[(1) Definitions.

(A) Cash premium payment means a premium payment made in the form of currency.

(B) Insurer means an insurance company, fraternal benefit society, health services corporation, health maintenance organization, prepaid health plan or any similar organization authorized to transact business in Missouri.

(C) Personal insurance policy means any liability or risk-assuming policy, contract, subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer, for the purpose of providing personal, noncommercial insurance coverage to an individual or family on a nongroup basis, including individual or family automobile, homeowners, life, annuity, health, property or casualty coverage.

(D) Licensee means a person licensed by Missouri to act as an insurance producer.

(E) Premium means any amount of money which is paid by the insured or prospective insured to a licensee for coverage under a personal insurance policy. The term shall also mean any amount which must be returned to the insured, as in the case of any unearned premium due the insured upon the termination of coverage.]

[(2)] **(1)** Document and Premium Handling Standards. When dealing with any personal insurance policy, every insurance producer shall comply with the following standards of promptness regarding securing and amending coverage, providing written evidence of insurance transactions and handling premiums, except to the extent these actions are the responsibility of the insurer. Where it is the insurer's responsibility to take these actions, this responsibility shall be delineated in a written document, a copy of which shall be retained by the licensee and available for examination by the department.

(A) Every insurance producer shall handle every application for new coverage under a personal insurance policy and every request for amendments to an existing policy in a manner which will secure the new or amended coverage as soon as is reasonably possible, unless a longer time is permitted under a written agreement between the licensee and the insured or prospective insured. If within thirty (30) days of the original application for insurance the licensee has not yet secured an insurer willing to provide coverage, the licensee immediately shall inform the prospective insured of this fact in writing.

(B) Whenever an insurer requires additional information prior to issuing a new personal insurance policy, or prior to renewing, continuing or amending an existing policy, the insurance producer through whom the insured or prospective insured applied for or procured the coverage shall inform, at the earliest reasonable opportunity, the insured or prospective insured of the need for the additional information from the insured or prospective insured.

(C) Every insurance producer shall provide every purchaser of a personal insurance policy with written evidence of coverage at the time coverage is bound or the policy is issued, whichever occurs earlier, or as soon after as is reasonably possible, but in no event later than thirty (30) days after the date the coverage is bound or the policy is issued. A written binder or insurance policy shall constitute written evidence of coverage for purposes of this subsection. Any application forms, riders or endorsements associated with the policy which are not provided along with written evidence of coverage shall be provided to the insured as soon as is reasonably possible. When an insurer declines to cover a prospective insured, the insurer's written denial of coverage shall be provided by the licensee to the prospective insured as soon as is reasonably possible, but in no event later than thirty (30) days after the date the coverage is denied.

(D) Insurance producers shall remit all premium payments associated with a personal insurance policy to those persons entitled to them as soon as is reasonably possible after their receipt by the licensee, but in no event later than thirty (30) days after the date of receipt, provided, however, that premiums may be remitted at a later point in time if the licensee is so authorized under a written agreement between the licensee and the person legally entitled to the premiums. In no event, however, shall a licensee retain premium payments if to do so will result in the failure to obtain or continue coverage on behalf of an insured or prospective insured.

*[(3)]***(2)** No insurance producer or a member of the insurance producer's immediate family shall, at any time, be named as a beneficiary or contingent beneficiary or shall acquire any ownership interest in any insurance policy held by an insurance client or former or prospective insurance client. Such a prohibition would not apply if there exists a relationship between the insurance client or former or prospective insurance client and the insurance producer or immediate family of the insurance producer which gives rise to an insurable interest.

*[(4)]***(3)** No insurance producer shall obtain or solicit for a loan from an insurance client or former or prospective insurance client or any type of ownership interest in any insurance policy held by an insurance client or former or prospective insurance client. This prohibition shall not apply—

(A) When it is the usual occupation or practice of the insurance client or former or prospective insurance client to receive and process loan applications and to provide loans to the public as an owner, officer, director or employee of an institution in the business of providing such loans; or

(B) When there exists a relationship between the insurance client or former or prospective insurance client and the insurance producer which gives rise to an insurable interest.

*[(5)]***(4)** Receipts for Cash Premiums Payments.

(A) Whenever a cash premium payment is received by an insurance producer for a personal insurance policy, a written receipt shall be executed by the licensee and given to the person making the premium payment. The receipt shall bear the words Receipt or Premium Receipt and shall include the following information:

1. The name of the insured;
2. The name of the insurer, where one (1) has been selected;
3. The date of the cash payment;
4. The amount of the cash payment;
5. The policy number, if available, or other information which will describe the insurance coverage for which the cash premium was paid;
6. The signature of the licensee or an employee of the licensee duly authorized in writing to accept these payments or to execute the receipts; and
7. Any comment required under subsection *[(3)]***(4)**(D) of this rule.

(B) Use of the form, Exhibit A, included herein, shall be deemed to satisfy the requirements of this section. Other receipt forms which contain the information required by this section may also be used. Methods of documenting the payment of premiums which do not satisfy all the requirements of this section, such as the use of premium payment books for debit plans, shall be deemed to satisfy this section only if their use for this purpose has been approved in writing by the director.

(C) A copy of the cash premium receipt shall be given to the person making the cash premium payment. An additional copy shall be retained by the licensee for the licensee's records as provided in section *[(6)]* **(5)** of this regulation, unless other records of the licensee and the insurer document the information required under subsections *[(5)]***(4)**(A) and (D) of this rule for purposes of inspections or examinations by the director.

(D) No insurance producer shall accept a cash premium payment for new coverage under a personal insurance policy where the licensee has not selected an insurer with whom to place the coverage unless the cash premium receipt bears a comment indicating that an insurer has not yet been selected and that coverage currently does not yet exist.

*[(6)]***(5)** Minimum Record Keeping Requirements for all Insurance Producers.

(A) Every insurance producer shall maintain a complete set of records for each personal insurance policy applied for or procured through the licensee, except to the extent the maintenance of these records is, in whole or in part, the responsibility of the insurer. Where it is the insurer's responsibility to maintain these records, this responsibility shall be delineated in a written document(s), a copy of which shall be retained by the licensee. The records which must be maintained shall include, but not be limited to, the following:

1. Any policy applications, declaration pages, endorsements, riders or binders associated with the policy;
2. Any written correspondence or copies of records transmitted to or received by the licensee concerning the policy;
3. Any documents associated with any claims filed with the licensee under the policy; and
4. Any receipts or other documents associated with any premium payments made to the licensee under the policy, including receipts for cash premium payments required under section *[(3)]* **(4)** of this regulation.

(B) The records required to be maintained under this section shall be open to the inspection or examination of the director *[of insurance]* or his/her agents, and shall be maintained in an orderly manner so that the information in the records is readily available during the inspection or examination. The requirement of this subsection shall be deemed satisfied whenever a requested record can be retrieved from its storage location within five (5) business days of a request by the director or the director's designee.

(C) An insurance producer operating under an exclusive contract with an insurer, including one (1) insurer and its subsidiaries or affiliates, upon termination of the agency appointment, shall be required to maintain only those records as the contract authorizes him/her to retain, provided that the insurer shall bear responsibility for maintaining all other records which otherwise would have been required to be maintained by the insurance producer.

(D) All records required to be maintained under this section shall be maintained for as long as the personal insurance policy in question is in force and for at least three (3) years thereafter.

[(7) Discipline. Violation by an insurance producer of the provisions of this regulation shall be deemed incompetent or untrustworthy behavior under section 375.141.1(8), RSMo, and shall constitute grounds for discipline of the licensee under that section or other applicable laws.]

*AUTHORITY: sections 374.045, RSMo 2000 and 375.141, RSMo Supp. [2001] **2006**. Original rule filed April 5, 1991, effective Oct. 31, 1991. Amended: Filed Nov. 29, 1993, effective July 30, 1994. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Amended: Filed Nov. 30, 2007.*

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

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

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at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
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Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.145 Standards of Commercial Honor and Principles of Trade in *[Variable]* Life, *[and Variable]* Annuity *and Long Term Care Insurance* Sales. The department is amending the rule title, the purpose and section (1) of this rule.

PURPOSE: This amendment codifies the professional duty to make appropriate recommendations for all life insurance, annuity and long term care contracts.

*PURPOSE: This rule implements the requirements of section 375.141.1(8), RSMo, with respect to the demonstration of incompetence, untrustworthiness or financial irresponsibility of producers in the offer, sale or exchange of [variable] life **insurance, annuities** and [variable annuity products] **long term care insurance**.*

(1) Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Producers, in the conduct of *[variable]* life *[and variable]* **insurance,** annuity**, and long term care insurance** business, shall observe high standards of commercial honor and just and equitable principles of trade. Implicit in a producer's relationship with customers is the fundamental responsibility of fair dealing. Practices that violate this responsibility of fair dealing include, but are not limited to, the following:

1. Inducing an exchange or switch of a *[variable]* life**,** *[or variable]* annuity**, or long term care insurance** contract with insignificant benefit to the consumer, but for the purpose of accumulating commissions by the producer; and

2. Causing the execution of transactions that are not authorized by customers or the sending of confirmations in order to cause customers to accept transactions not actually agreed upon; and

*AUTHORITY: sections 374.040, 374.045 and 375.013, RSMo 2000 **and 375.143, and 376.309.6, RSMo, SB 66, Ninety-fourth General Assembly, First Regular Session, (2007)**. Emergency rule filed April 14, 2005, effective April 26, 2005, expires Jan. 1, 2006. Original rule filed Sept. 30, 2005, effective March 30, 2006. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.146 Recommendations of *Annuities or Variable Life Insurance* to Customers (Suitability). The department is amending the title and the purpose, amending and renumbering sections (1) and (2) and adding new sections (2) and (3).

PURPOSE: This amendment codifies the professional duty to make appropriate recommendations for all annuities.

*PURPOSE: This rule implements the requirements of sections 375.141.1(8) **and 375.143**, RSMo, with respect to the **codification of professional standards of conduct in the recommendation of annuities and variable life insurance contracts. Failure to meet these standards would constitute the** demonstration of incompetence, untrustworthiness or financial irresponsibility of producers in the offer, sale or exchange of **annuities and** variable life [and variable annuity products] **contracts**.*

(1) **The standards of conduct codified in this rule reflect the professionalism of a licensed insurance producer.** Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) **Variable Annuities and Variable Life Insurance.**

1. In recommending to an individual customer the purchase, sale or exchange of any variable life or variable annuity product, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other investment holdings and as to his financial situation and needs.

[(B)] **2.** Prior to the execution of a variable life or variable annuity transaction recommended to an individual customer**,** a producer shall make reasonable efforts to obtain information concerning—

*[1.]***A.** The customer's financial status**, including annual income, financial situation and needs and existing assets**;

*[2.]***B.** The customer's tax status;

C. The customer's age, life expectancy and health status;

*[3.]***D.** The customer's insurance *[and investment]* objectives;

E. The customer's investment objectives;

F. The customer's risk tolerance;

G. The customer's investment, insurance and financial experience;

*[4.]***H.** The customer's **investment time horizon, liquid net worth and** current and reasonably anticipated needs for liquidity; and

*[5.]***I.** Such other information used or considered to be reasonable by such producer in making recommendations to the customer.

[(C) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.]

*[(2)]***3.** Interpretation of **subsection (1)(A) of** this rule shall be guided by judicial and administrative opinions and decisions construing substantially similar requirements of the *[National Association of Securities Dealers (NASD)]* **Financial Industry Regulatory Authority or its predecessor organizations**.

(B) Fixed, Indexed or Other Covered Annuities.

1. In recommending to an individual customer the purchase, sale or exchange of a covered annuity contract, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his insurance and investments and as to his current and reasonably anticipated financial situation and needs.

2. Prior to the execution of a covered annuity transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

A. The customer's financial status, including annual income, financial situation and needs and existing assets;

B. The customer's tax status;

C. The customer's age, life expectancy and health status;

D. The customer's insurance objectives;

E. The customer's investment objectives;

F. The customer's risk tolerance;

G. The customer's investment, insurance and financial experience;

H. The customer's investment time horizon, liquid net worth and current and reasonably anticipated needs for liquidity; and

I. Such other information used or considered to be reasonable by such producer in making recommendations to the customer.

(C) All Deferred Annuities.

1. No producer shall recommend to any customer the purchase or exchange of any deferred annuity, unless the producer has a reasonable basis to believe:

A. That the transaction is suitable in accordance with this rule and, in particular, that there is a reasonable basis to believe that—

(I) The customer has been informed, in general terms, of various features of deferred annuities, such as the potential surrender period and surrender charge; potential tax penalty if customers sell or redeem deferred variable annuities before reaching the age of fifty-nine and one half (59½); mortality and expense fees; investment advisory fees; potential charges for and features of riders; the insurance and investment components of deferred annuities; and market risk;

(II) The customer would benefit from certain features of deferred annuities, such as tax-deferred growth, annuitization, or a death or living benefit; and

(III) The particular deferred annuity as a whole, the underlying subaccounts to which funds are allocated at the time of the purchase or exchange of the deferred annuity, and riders and similar product enhancements, if any, are suitable (and, in the case of an exchange, the transaction as a whole also is suitable) for the particular customer based on the information required by this rule; and

B. In the case of an exchange of a deferred annuity, the exchange also is consistent with the suitability determination required by subparagraph (1)(C)1.A. of this rule, taking into consideration whether—

(I) The customer would incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees or charges (such as mortality and expense fees, investment advisory fees, or charges for riders and similar product enhancements);

(II) The customer would benefit from product enhancements and improvements; and

(III) The customer's account has had another deferred annuity exchange within the preceding thirty-six (36) months.

(2) Record Keeping. The determinations required by this rule shall be documented and signed by the producer recommending the transaction.

(3) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

AUTHORITY: sections 374.040, 374.045 and 375.013, RSMo 2000 ***and 375.143*** *and* ***376.309.6, RSMo, SB 66, Ninety-fourth General Assembly, First Regular Session, (2007)****. Original rule filed July 5, 2005, effective Jan. 30, 2006. Amended: Filed Nov. 30, 2007.*

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

PRIVATE COST: This proposed amendment will cost private entities in excess of five hundred dollars ($500) annually. Compliance will cost insurance producers approximately $6,865,200 for one-time training and $1,963,350 for annual labor costs or $29 per insurance producer per year.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	20 CSR 700-1.146 **Recommendations of Annuities or Variable Life Insurance to Customers (Suitability).**
Type of Rulemaking	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	**Classifications by types of the business entities which would likely be affected:**	**Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:**
68,652 licensed producers		68,652 Producers x $100 training = $6,865,200 in the aggregate
39,267 annuity contracts		39,267 Annuity Contracts x 1 hour x $50 = $1,963,350 annual labor costs, or about $29/Producer/Year

III. WORKSHEET & ASSUMPTIONS

Currently there are 68,652 producers licensed who could potentially market individual covered annuity contracts. Based on information from two insurance training providers, initial training in suitability is estimated at 8 hours at a cost of $100.00. There is no requirement for this training, but the department assumes most producers would choose to receive training in conducting suitability analysis.

Total training costs 68,652 x $100 = $6,865,200
Average cost per producer would be approximately $100.00

2006 data reflects 350,436 insureds for individual covered annuity contracts. The average annual net increase in insureds from 2003-2006 was 4,224. The department assumes a 10% turnover in existing covered annuity contract insureds at 35,043. Total number of new insureds who would receive a covered annuity contract suitability analysis is estimated at 39,267. The department assumes 1 hour per insured to conduct and document the analysis at a rate of $50.00 per hour.

39,267 x 1 hour x 50.00 = $1,963,350.00
Average cost per producer would be approximately $29.00 per year.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.147 Reasonable Supervision in Variable Life and Variable Annuity Sales. The department is amending the purpose and section (1).

PURPOSE: This rule is being amended to recognize that the National Association of Securities Dealers (NASD) is now the Financial Industry Regulatory Authority (FINRA).

PURPOSE: This rule implements the requirements of sections 375.141.1(8) ***and 375.143****, RSMo, with respect to the demonstration of incompetence, untrustworthiness or financial irresponsibility by producers in the offer, sale or exchange of variable life and variable annuity products.*

(1) Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Individual Producers. Each individual producer licensed to sell variable life and variable annuity products shall be supervised by a member of the *[National Association of Securities Dealers (NASD)]* **Financial Industry Regulatory Authority (FINRA)**, which member shall also be licensed as a business entity producer with the *[Department of Insurance]* **director** (supervising member).

(B) Supervising Members.

1. Supervisory system.

A. Each supervising member shall establish and maintain a system to supervise the activities of each individual producer that is reasonably designed to achieve compliance with applicable state insurance laws and regulations, federal securities laws and regulations, and with applicable *[NASD]* **FINRA** rules. Final responsibility for proper supervision shall rest with the supervising member. A supervising member's supervisory system shall provide, at a minimum, for the following:

(I) The establishment and maintenance of written procedures as required by paragraphs (1)(B)2. and 3. of this rule;

(II) The designation, where applicable, of an appropriately qualified and registered *[NASD]* **FINRA** principal(s) with authority to carry out the supervisory responsibilities of the supervising member for variable life and variable annuity products;

(III) The designation of an office of supervisory jurisdiction (OSJ) of each location that meets the definition contained in *[NASD]* **FINRA** Rule 3010(g)(2), effective January 31, 2005. The supervising member shall also designate such other OSJs as it determines to be necessary in order to supervise its producers and employees in accordance with the standards set forth in this rule, taking into consideration the following factors:

(a) Whether the individual producers or employees engage in retail sales or other activities involving regular conduct with public customers;

(b) Whether a substantial number of individual producers conduct sales activities at, or are otherwise supervised from, such location;

(c) Whether the location is geographically distant from another OSJ of the supervising member;

(d) Whether the individual producers are geographically dispersed; and

(e) Whether the investment or insurance activities at such location are diverse and/or complex;

(IV) The designation of one or more appropriately qualified and registered *[NASD]* **FINRA** principal(s) in each OSJ, including the main office, and one or more appropriately *[NASD]* **FINRA** qualified and licensed producers in each non-OSJ branch office (as defined in *[NASD]* **FINRA** Rule 3010(g)(1), effective January 31, 2005) with authority to carry out the supervisory responsibilities assigned to that office by the supervising member;

(V) The assignment of each individual producer to an appropriately *[NASD]* **FINRA** qualified and licensed producer who shall be responsible for supervising that person's activities;

(VI) Reasonable efforts to determine that all supervisory personnel are qualified by virtue of experience or training to carry out their assigned responsibilities;

(VII) The participation of each producer, either individually or collectively, no less than annually, in an interview or meeting conducted by persons designated by the supervising member at which compliance matters relevant to the activities of the individual producer(s) are discussed. Such interview or meeting may occur in conjunction with the discussion of other matters and may be conducted at a central or regional location or at the individual producer's place of business.

2. Written procedures.

A. Each supervising member shall establish, maintain, and enforce written procedures to supervise the variable life and variable annuity business in which it engages and to supervise the activities of individual producers that are reasonably designed to achieve compliance with applicable state insurance laws and regulations, federal securities laws and regulations, and with applicable *[NASD]* **FINRA** rules.

B. The supervising member's written supervisory procedures shall set forth the supervisory system established by the supervising member pursuant to subparagraph (1)(B)1.A. above, and shall include the titles, registration/licensure status and locations of the required supervisory personnel and the responsibilities of each supervisory person as these relate to the types of business engaged in, applicable insurance laws and regulations, applicable federal securities laws and regulations, and applicable *[NASD]* **FINRA** rules. The supervising member shall maintain on an internal record the names of all persons who are designated as supervisory personnel and the dates for which such designation is or was effective. Such record shall be preserved by the supervising member for a period of not less than three (3) years, the first two (2) years in an easily accessible place.

C. A copy of a supervising member's written supervisory procedures, or the relevant portions thereof, shall be kept and maintained in each OSJ and at each location where supervisory activities are conducted on behalf of the supervising member. Each supervising member shall amend its written supervisory procedures as appropriate within a reasonable time after changes occur in applicable state insurance laws and regulations, applicable federal securities laws and regulations, and applicable *[NASD]* **FINRA** rules, and as changes occur in its supervisory system, and each supervising member shall be responsible for communicating amendments to the individual producers it supervises.

3. Internal inspections.

A. Each supervising member shall conduct a review, at least annually, of the businesses in which it engages, which review shall be reasonably designed to assist in detecting and preventing violations of, and achieving compliance with, applicable state insurance laws, applicable federal securities laws and regulations, and with applicable *[NASD]* **FINRA** rules. Each supervising member shall review the activities of each office, which shall include the periodic examination of customer accounts, to detect and prevent irregularities or abuses.

(I) Each supervising member shall inspect at least annually every office of supervisory jurisdiction and any branch office that supervises one or more non-branch locations.

(II) Each supervising member shall inspect at least every three (3) years every branch office that does not supervise one or more non-branch locations. In establishing how often to inspect each non-supervisory branch office, the firm shall consider whether the nature and complexity of the variable life and variable annuity sales activities for which the location is responsible, the volume of business done, and the number of individual producers assigned to the location require the non-supervisory branch office to be inspected more frequently than every three (3) years. If a supervising member establishes a more frequent inspection cycle, the supervising member must ensure that at least every three (3) years, the inspection requirements enumerated in subparagraph (1)(B)3.B. have been met. The non-supervisory branch office examination cycle, an explanation of the factors the supervising member used in determining the frequency of the examinations in the cycle, and the manner in which a supervising member will comply with subparagraph (1)(B)3.B. if using more frequent inspections than every three (3) years, shall be set forth in the supervising member's written supervisory and inspection procedures.

(III) Each supervising member shall inspect on a regular periodic schedule every non-branch location. In establishing such schedule, the firm shall consider the nature and complexity of the variable life and variable annuities activities for which the location is responsible and the nature and extent of contact with customers. The schedule and an explanation regarding how the supervising member determined the frequency of the examination schedule shall be set forth in the supervising member's written supervisory and inspection procedures.

(IV) Each supervising member shall retain a written record of the dates upon which each review and inspection is conducted.

B. An office inspection and review by a supervising member pursuant to subparagraph (1)(B)3.A. must be reduced to a written report and kept on file by the supervising member for a minimum of three (3) years, unless the inspection is being conducted pursuant to part (1)(B)3.A.(III) and the regular periodic schedule is longer than a three (3)-year cycle, in which case the report must be kept on file at least until the next inspection report has been written. The written inspection report must also include, without limitation, the testing and verification of the supervising member's policies and procedures, including supervisory policies and procedures in the following areas:

(I) Safeguarding of customer funds and annuities;

(II) Maintaining of books and records;

(III) Supervision of customer accounts serviced by branch office managers;

(IV) Transmittal of funds between customers and individual producers;

(V) Validation of customer address changes; and

(VI) Validation of changes in customer account information.

If a supervising member does not engage in all of the activities enumerated above, the supervising member must identify those activities in which it does not engage in the written inspection report and document in the report that supervisory policies and procedures for such activities must be in place before the supervising member can engage in them.

C. An office inspection by a supervising member pursuant to subparagraph (1)(B)3.A. may not be conducted by the branch office manager or any person within that office who has supervisory responsibilities or by any individual who is supervised by such person(s). However, if a supervising member is so limited in size and resources that it cannot comply with this limitation (e.g., a supervising member with only one (1) office or a supervising member has a business model where small or single-person offices report directly to an office of supervisory jurisdiction manager who is also considered the office's branch office manager), the supervising member may have a principal who has the requisite knowledge to conduct an office inspection perform the inspections. The supervising member, however, must document in the office inspection reports the factors it has relied upon in determining that it is so limited in size and resources that it has no other alternative than to comply in this manner. A supervising member must have in place procedures that are reasonably designed to provide heightened office inspections if the person conducting the inspection reports to the branch office manager's supervisor or works in an office supervised by the branch manager's supervisor and the branch office manager generates twenty percent (20%) or more of the revenue of the business units supervised by the branch office manager's supervisor. For the purposes of this paragraph only, the term "heightened inspection" shall mean those inspection procedures that are designed to avoid conflicts of interest that serve to undermine complete and effective inspection because of the economic, commercial, or financial interests that the branch manager's supervisor holds in the associated persons and businesses being inspected. In addition, for the purpose of this paragraph only, when calculating the twenty percent (20%) threshold, all of the revenue generated by or credited to the branch office or branch office manager shall be attributed as revenue generated by the business units supervised by the branch office manager's supervisor irrespective of a supervising member's internal allocation of such revenue. A supervising member must calculate the twenty percent (20%) threshold on a rolling, twelve (12)-month basis.

4. Review of transactions and correspondence.

A. Supervision of individual producers. Each supervising member shall establish procedures for the review and endorsement by a *[NASD]* **FINRA** qualified principal in writing, on an internal record, of all transactions and for the review by a registered principal of incoming and outgoing written and electronic correspondence of its individual producers with the public relating to the variable life or variable annuities business of such supervising member. Such procedures should be in writing and be designed to reasonably supervise each individual producer. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the *[Department of Insurance]* **director** upon request.

B. Review of correspondence. Each supervising member shall develop written procedures that are appropriate to its business, size, structure, and customers for the review of incoming and outgoing written (i.e., non-electronic) and electronic correspondence with the public relating to its variable life or variable annuities business, including procedures to review incoming, written correspondence directed to individual producers and related to the supervising member's variable life or variable annuities business to properly identify and handle customer complaints and to ensure that customer funds and variable life and variable annuities are handled in accordance with supervising member's procedures. Where such procedures for the review of correspondence do not require review of all correspondence prior to use or distribution, they must include provision for the education and training of associated persons as to the supervising member's procedures governing correspondence, documentation of such education and training, and surveillance and follow-up to ensure that such procedures are implemented and adhered to.

C. Each supervising member shall retain correspondence of producers relating to its variable life and variable annuity business in accordance with Rules 17a-3 and 17a-4 under the Securities and Exchange Act of 1934. The names of the persons who prepared outgoing correspondence and who reviewed the correspondence shall be ascertainable from the retained records and the retained records shall be readily available to the *[Department of Insurance]* **director**, upon request.

5. Qualifications investigated.

A. Each supervising member shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications, and experience of any individual producer prior to assisting in the application of such person for a variable life or variable annuity line with the department.

B. Where an applicant for license has previously been licensed with the department, the supervising member shall review a copy of the Uniform Termination Notice of Securities Industry Registration (Form U-5) filed with the *[NASD]* **FINRA** by such person's most recent previous *[NASD]* **FINRA** member employer, together with any amendments thereto that may have been filed pursuant to Article V, Section 3 of the *[NASD]* **FINRA**'s By-Laws. The supervising member shall review the Form U-5 as required by this rule no later than sixty (60) days following the filing of the application for license or demonstrate to the department that it has made reasonable efforts to comply with the requirement. In conducting its review of the Form U-5 and any amendments thereto, a supervising member shall take such action as may be deemed appropriate.

6. Supervisory control system.

A. General requirements.

(I) Each supervising member shall designate and specifically identify one (1) or more principals who shall establish, maintain, and enforce a system of supervisory control policies and procedures that:

(a) Test and verify that the supervising member's supervisory procedures are reasonably designed with respect to its activities and the activities of its employees, to achieve compliance with applicable state insurance laws and regulations, applicable federal securities laws and regulations, and with applicable *[NASD]* **FINRA** rules; and

(b) Create additional or amend supervisory procedures where the need is identified by such testing and verification.

(II) The designated principal or principals must submit to the supervising member's senior management no less than annually, a report detailing each supervising member's system of supervisory controls, the summary of the test results and significant identified exceptions, and any additional or amended supervisory procedures created in response to the test results.

(III) The establishment, maintenance, and enforcement of written supervisory control policies and procedures pursuant to part (1)(B)6.A.(I) shall include:

(a) Procedures that are reasonably designed to review and supervise the customer account activity conducted by the supervising member's branch office managers, sales managers, regional or district sales managers, or any person performing a similar supervisory function.

I. A person who is either senior to, or otherwise independent of, the producing manager must perform such supervisory reviews. For purposes of this rule, an "otherwise independent" person: may not report either directly or indirectly to the producing manager under review; must be situated in an office other than the office of the producing manager; must not otherwise have supervisory responsibility over the activity being reviewed (including not being directly compensated based in whole or in part on the revenues accruing for those activities); and must alternate such review responsibility with another qualified person every two (2) years or less.

II. If a supervising member is so limited in size and resources that there is no qualified person senior to, or otherwise independent of, the producing manager to conduct the reviews pursuant to (1)(B)6.A.(II)(a)I. above (e.g., a supervising member has only one (1) office or an insufficient number of qualified personnel who can conduct reviews on a two (2)-year rotation), the reviews may be conducted by a principal who is sufficiently knowledgeable of the supervising member's supervisory control procedures, provided that the reviews are in compliance with (1)(B)6.A.(II)(a)I. to the extent practicable.

III. A supervising member relying on (1)(B)6.A.(II)(a)II. above must document in its supervisory control procedures the factors used to determine that complete compliance with all of the provisions of (1)(B)6.A.(II)(a)I. is not possible and that the required supervisory systems and procedures in place with respect to any producing manager comply with the provisions of (1)(B)6.A.(II)(a)I. above to the extent practicable.

(b) Procedures that are reasonably designed to review and monitor the following activities:

I. All transmittals of funds (e.g., wires or checks, etc.) from customers to third party accounts (i.e., a transmittal that would result in a change of beneficial ownership); from customer accounts to outside entities (e.g., banks, investment companies, etc.); from customer accounts to locations other than a customer's primary residence (e.g., post office box, "in care of" accounts, alternate address, etc.); and between customers and registered representatives, including the hand-delivery of checks;

II. Customer changes of address and the validation of such changes of address; and

III. Customer changes of investment objectives and the validation of such changes of investment objectives.

(c) The policies and procedures established pursuant to subpart (1)(B)6.A.(II)(b) must include a means or method of customer confirmation, notification, or follow-up that can be documented. If a supervising member does not engage in all of the activities enumerated above, the supervising member must identify those activities in which it does not engage in its written supervisory control policies and procedures and document in those policies and procedures that additional supervisory policies and procedures for such activities must be in place before the supervising member can engage in them; and

(d) Procedures that are reasonably designed to provide heightened supervision over the activities of each producing manager who is responsible for generating twenty percent (20%) or more of the revenue of the business units supervised by the producing manager's supervisor. For the purposes of this part only, the term "heightened supervision" shall mean those supervisory procedures that evidence supervisory activities that are designed to avoid conflicts of interest that serve to undermine complete and effective supervision because of the economic, commercial, or financial interests that the supervisor holds in the associated persons and businesses being supervised. In addition, for the purpose of this part only, when calculating the twenty percent (20%) threshold, all of the revenue generated by or credited to the producing manager or the producing manager's office shall be attributed as revenue generated by the business units supervised by the producing manager's supervisor irrespective of a supervising member's internal allocation of such revenue. A supervising member must calculate the twenty percent (20%) threshold on a rolling, twelve (12)-month basis.

(3) Interpretation of this rule shall be guided by judicial and administrative opinions and decisions construing substantially similar requirements of the *[NASD]* **FINRA or its predecessor organizations**. Any person in compliance with substantially similar requirements of the *[NASD]* **FINRA** shall be deemed to be in compliance with the provisions of this rule.

AUTHORITY: sections 374.040, 374.045 and 375.013, RSMo 2000 ***and 375.143*** *and 376.309.6,* ***RSMo, SB 66, Ninety-fourth General Assembly, First Regular Session, (2007)****. Original rule filed July 5, 2005, effective Jan. 30, 2006. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested

persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 1—Insurance Producers

PROPOSED RULE

20 CSR 700-1.148 Reasonable Supervision in Fixed, Indexed or Other Covered Annuity Sales

PURPOSE: This rule implements the requirements of sections 375.141.1(8) and 375.143, RSMo, with respect to the demonstration of incompetence, untrustworthiness or financial irresponsibility by producers in the offer, sale or exchange of fixed, indexed or other covered annuity products.

(1) The standards of conduct codified in this rule reflect the professionalism of a licensed insurance producer. Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Individual Producers. Each individual producer, prior to recommending or selling any covered annuity contract to any person, shall be under a supervisory system meeting the standards pursuant to this rule by either an authorized insurer in this state or a qualified third party under contract with the insurer;

(B) Supervisory System.

1. An insurer issuing annuity contracts in this state shall assure that a system to supervise producers, which is reasonably designed to achieve compliance with rule 20 CSR 700-1.146(1)(B), is established and maintained under this rule. A supervisory system shall provide, at a minimum, for the following:

A. The establishment and maintenance of written procedures reasonably designed to detect and prevent violations of rule 20 CSR 700-1.146(1)(B); and

B. Conducting periodic reviews of records that are reasonably designed to detect and prevent violations of rule 20 CSR 700-1.146(1)(B).

2. An insurer may establish and maintain such a system directly, or may contract with a third party, including a general agent or independent agency (supervising entity), to establish and maintain a system of supervision as required under this rule.

3. An insurer, which elects to contract with a supervising entity, shall make reasonable inquiry to assure that the supervising entity maintains licensure as a business entity producer with the department and is performing the supervisory functions under this rule, and shall immediately report to the director any failure to perform the functions as required by this rule.

4. A supervising entity contracted to establish and maintain the supervisory system required by this rule shall hold an effective license as a business entity producer with the director.

5. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

A. Annually obtain a certification from the supervising entity that the supervising entity holds an effective license as a business entity producer;

B. Annually obtain a certification from the supervising entity senior manager who has the responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent that the supervising entity is performing the functions as required by paragraph (1)(B)1. of this rule; and

C. Based on reasonable selection criteria, periodically select supervising entities contracting under this rule for a review to determine whether the supervising entity is performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.

6. A supervising entity contracted to establish and maintain the supervisory system required by this rule shall promptly, when requested by the insurer pursuant to paragraph (1)(B)5., give certification as provided in paragraph (1)(B)5. or immediately report to the insurer and the director in writing it is unable to meet the certification criteria;

(C) Supervising Entity as a Business Entity Producer. The failure of any supervising entity contracted to establish and maintain the supervisory system required by this rule, to establish and maintain written procedures and policies reasonably designed to detect and prevent violations of rule 20 CSR 700-1.146(1)(B), shall be subject to discipline or disqualification under section 375.141, RSMo for failure to comply with this conduct rule and for materially aiding individual producers in failing to comply with rule 20 CSR 700-1.146(1)(B); and

(D) Record Keeping. Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the document.

1. Suitability Records. An insurance producer shall maintain records of the information collected from the customer and other information used in making any recommendation of a covered annuity for five (5) years after the insurance transaction is completed by the insurer. Pursuant to its duty to supervise a supervising entity or insurer may perform this obligation to maintain records.

2. Supervision Records. An insurer or a supervising entity shall maintain records related to actions performed pursuant to the supervisory system as implemented under this rule for three (3) years from the date of each action performed pursuant to its system.

(2) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

AUTHORITY: sections 374.045, RSMo 2000, and 375.141, RSMo Supp. 2006 and 375.143, RSMo, SB 66, Ninety-fourth General Assembly, First Regular Session (2007). Original rule filed Nov. 30, 2007.

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

PRIVATE COST: This proposed rule will cost private entities in excess of five hundred dollars ($500) annually. Compliance will cost insurance producers approximately $754,000 or $2,000 per insurer for development costs and $27,460,800 or approximately $72,830 per insurer for annual supervision costs.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons,

whether or not heard, may submit a written statement in support of or in opposition to the proposed rule until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	**20 CSR 700-1.148 Reasonable Supervision in Fixed, Indexed or Other Covered Annuity Sales**
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	**Classifications by types of the business entities which would likely be affected:**	**Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:**
377 Insurers	Insurers who have written premium for individual covered annuity contracts	Development of Suitability Forms (1-time cost): 377 Insurers x 40 hours x $50 = $754,000 or $2,000 per insurer Annual Supervision: 66,652 Insurance Producers x 8 hours x $50 = $27,460,800 Or approximately $72,830 per Insurer

III. WORKSHEET & ASSUMPTIONS

This proposed rule adds a requirement that an insurer issuing covered annuity contracts establish a system to supervise producers to achieve compliance with Rule 20 CSR 700-1.146 (1)(B). The supervisory system will require periodic review of records.

2006 data reflects that there are 377 insurers who have written premium for individual covered annuity contracts. The department assumes development and implementation of a supervisory system including suitability forms will require 40 hours per insurer at a rate of $50.00 per hour. Total one-time costs for development and implementation of systems:
377 x 40 x 50 = $754,000
Average one-time cost per insurer would be approximately $2,000.

Ongoing supervision with annual review is estimated at 8 hours per producer per year at a rate of $50.00 per hour. Total estimated cost for supervision and reviews:
68,652 x 8 x 50 = $27,460,800

Average cost per insurer would be approximately $72,830

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 1—Insurance Producers

PROPOSED RULE

20 CSR 700-1.152 Recommendations of Long Term Care Insurance to Customers (Suitability)

PURPOSE: This rule implements the requirements of sections 375.141.1(8) and 375.143, RSMo, with respect to the codification of professional standards of in the recommendation of long term care contracts. Failure to meet these standards would constitute the demonstration of incompetence, untrustworthiness or financial irresponsibility of producers in the offer, sale or exchange of long term care contracts.

(1) The professional standards of conduct codified in this rule reflect standards of a licensed insurance producer. Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Long Term Care Insurance.

1. In recommending to an individual customer the purchase, sale or exchange of a long term care insurance contract, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his insurance and investments and as to his current and reasonably anticipated financial situation and needs.

2. Prior to the execution of a long term care insurance transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

A. The customer's financial status, including annual income, financial situation and needs and existing assets;

B. The customer's tax status;

C. The customer's age, life expectancy and health status;

D. The customer's insurance objectives;

E. The customer's investment objectives;

F. The customer's investment, insurance and financial experience;

G. The customer's current and reasonably anticipated needs for liquidity;

H. The customer's reasonably anticipated eligibility for MO HealthNet; and

I. Such other information used or considered to be reasonable by such producer in making recommendations to the customer;

(B) The standards and systems designed by insurers under 20 CSR 400-4.100 shall comply with the professional standards codified in this rule; and

(C) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

AUTHORITY: sections 374.040, 374.045 and 375.013, RSMo 2000 and 375.143, RSMo SB 66 Ninety-fourth General Assembly, First Regular Session, (2007). Original rule filed Nov. 30, 2007.

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

PRIVATE COST: This proposed rule will cost private entities in excess of five hundred dollars ($500) annually. Compliance will cost insurance producers approximately $760,700 or $13.76 per producer per year of labor.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	**20 CSR 700-1.152 Recommendations of Long Term Care Insurance to Customers (Suitability)**
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	**Classifications by types of the business entities which would likely be affected:**	**Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:**
55,264 Insurance Producers		15,214 LTC contracts x 1 hour x $50 = $760,700 or $13.76 per producer per year

III. WORKSHEET & ASSUMPTIONS

This proposed rule adds a requirement that a producer make reasonable efforts to determine that a recommendation for the purchase, sale or exchange of a long term care insurance contract is suitable for a customer.

Currently there are 55,264 producers licensed who could potentially market long term care insurance. 2006 data reflects 127,793 insureds for individual long term care insurance. The average annual net increase in insureds from 2003-2006 was 2,435. The department assumes a 10% turnover in existing LTC insureds at 12,799. Total number of new insureds who would receive a LTC suitability analysis is estimated at 15,214. The department assumes 1 hour per insured to conduct the analysis at a rate of $50.00 per hour.

15,214 x 1 hour x 50 = $760,700.00
Average cost per producer would be approximately $13.76 per year ($760,700.00 / 55,264).

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 2—Public Adjusters and Public Adjuster Solicitors

PROPOSED RULE

20 CSR 700-2.005 Scope and Definitions

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Applicability of Rules. The rules in this chapter apply to public adjusters transacting the business of insurance in this state under Chapter 325, RSMo. The rules shall be read together with Chapter 536, RSMo.

(2) Definitions.

(A) "Director," the director of the department.

(B) "Department," the Department of Insurance, Financial Institutions and Professional Registration.

(C) "Adjustment or settlement of claims," the negotiation with an insurer on behalf of an insured as to the amount or extent of a loss covered by a policy of fire or allied lines of insurance and the acts of representing the insured or speaking on behalf of the insured toward any agent or other person granted the authority to adjust claims by an insurer.

(D) Insurer," an insurance company organized under the laws of this state, or another state or country, and transacting the business of insurance in this state.

(E) "License," the authority granted by the director to any person to transact business as a public adjuster or public adjuster solicitor.

(F) "Licensee," a person authorized under a license by this state to act as a public adjuster or public adjuster solicitor.

(G) "NAIC," the National Association of Insurance Commissioners.

(H) "NIPR", the National Insurance Producer Registry.

AUTHORITY: sections 325.050 and 374.045, RSMo 2000. Original rule filed Nov. 30, 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: A public hearing will be held on this proposed rule at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 2—Public Adjusters and Public Adjuster Solicitors

PROPOSED AMENDMENT

20 CSR 700-2.100 Public Adjusters. The department is amending the purpose clause and section (1) and section (3) of this rule.

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule as context allows.

(1) *[Definition of Public Adjuster. The term adjustment or settlement of claims as used in section 325.010(1), RSMo (1986) shall include any person not otherwise exempted by that definition who negotiates with an insurer on behalf of an insured as to the amount or extent of a loss covered by a policy of fire or allied lines of insurance. This shall include the acts of representing the insured or speaking on behalf of the insured toward any agent or other person granted the authority to adjust claims by an insurer. No]* **It is unlawful for any** person *[shall so act]* **to act as a public adjuster** unless licensed as required by sections 325.010 *[–]* **to** 325.055, RSMo *[(1986)]*.

(3) Applicability of Unfair Trade Practices Act. *[Notice is provided to all p]***P**ublic adjusters **or any other person may be subject to enforcement action by the director under section 375.046, RSMo for any unfair method of competition or any unfair or deceptive act or practice in violation of** *[that they are within the scope of the unfair trade practices act,]* sections 375.930 *[–]* **to** 375.948, RSMo *[(1986)]*, with attendant penalties. Particular attention is directed to the prohibitions of section 375.936(1), RSMo *[1986]*, relating to restraint of trade; section 375.936(2), RSMo *[1986]*, defamatory statements; section 375.936(4), RSMo *[1986]*, making untrue, deceptive or misleading statements with respect to the business of insurance or any person in the conduct of that business; and section 375.936(5), RSMo *[(1986)]*, misrepresentations of the benefits of an insurance policy.

AUTHORITY: sections 325.010 [and], 375.936, [RSMo 1986 and] 325.050 and 374.045, RSMo 2000. This rule was previously filed as 4 CSR 190-12.070. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. Amended: Filed Oct. 31, 1988, effective March 1, 1989. Amended: Filed Nov. 30, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m.

on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 2—Public Adjusters and Public Adjuster Solicitors

PROPOSED AMENDMENT

20 CSR 700-2.300 Public Adjuster Contracts. The department is amending the purpose clause and section (1) and section (3) of this rule.

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule as context allows.

PURPOSE: This rule specifies information which must be contained in contracts for the services of public adjusters. It requires that the right of cancellation provided in section 325.050, RSMo [(1986)] be disclosed in each contract by which an insured employs a public adjuster to adjust a fire loss.

(1) Every contract for services to be rendered by a public adjuster within the scope of Chapter 325, RSMo shall contain the following statement. It shall be in boldface ten (10)-point or larger type (except for the statute included) and located conspicuously on the front face of the contract. "THIS CONTRACT MAY BE CANCELLED WITHIN THREE (3) DAYS AFTER THE OWNER OF THE DAMAGED PROPERTY HAS SIGNED THIS AGREEMENT. MISSOURI LAW SAYS:

'1. The owner of damaged property has the right to cancel any agreement entered into with a licensed public adjuster or a licensed public adjuster solicitor until midnight of the third business day after the day on which the agreement was signed.' '2. Cancellation occurs when the buyer gives written notice of cancellation to the licensed public adjuster or licensed public adjuster solicitor at the address stated in the agreement between the parties. Notice of cancellation may be given by mail and is given when deposited in a United States mail box properly addressed and postage prepaid. Notice of cancellation must contain the written intention of the owner to cancel the agreement. No liability accrues to the owner when the agreement is cancelled within the period, except for reasonable expenses incurred in preserving the damaged premises during the said three **(3)**-day period.' Section 325.050, RSMo *[(1986)]*."

(3) The director reserves the right to approve forms of contracts containing language other than that specified in section (1) of this regulation if the language reasonably discloses to the insured his/her statutory rights under section 325.050, RSMo *[(1986)]* and is otherwise consistent with all other provisions of law and regulations promulgated.

*AUTHORITY: sections 325.050 and 374.045, RSMo [1986] **2000**. This rule was previously filed as 4 CSR 190-21.010. Original rule filed July 15, 1976, effective Dec. 20, 1976. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, MO. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 3—Education Requirements

PROPOSED AMENDMENT

20 CSR 700-3.200 Continuing Education. The department is adding two (2) new sections as sections (2) and (3), renumbering the subsequent sections, and amending sections (1), (4) and (14) of this rule.

PURPOSE: This amendment complies with the additional requirements in Senate Bill No. 66 for specific curriculum requirements for continuing education and coursework offered by additional professional organizations, and reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

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

(K) Director—the director of the Department of Insurance, **Financial Institutions and Professional Registration,** or his/her designee;

(L) Licensee—a person who is licensed by the *[Missouri Department of Insurance (MDI)]* **department** as an insurance producer;

(2) Of those hours of continuing education required by section 375.020.1, RSMo, insurance producers licensed in any of the lines of authority designated in section 375.018.1(1) through (6), RSMo, must complete three (3) hours of instruction covering ethics, Missouri law and producer duties and obligations to the department during any two (2)-year licensure period. Courses on ethics, laws and duties must be approved as such by the director to be eligible for meeting this requirement.

(3) Courses by Approved Professional Organizations. In addition to those programs of instruction designated in 375.020.2, RSMo as meeting the director's standards for continuing education requirements, courses taken as part of the following programs of study or courses approved by the enumerated professional organizations are deemed to meet the same:

(A) Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.;

(B) Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania;

(C) Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants;

(D) Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts;

(E) Chartered Investment Counselor (CIC) awarded by the Investment Council Association of America, Inc.;

(F) Certified Investment Management Consultant (CIMC) awarded by the Institute for Certified Investment Management Consultants;

(G) Certified Investment Management Analyst (CIMA) awarded by the Investment Management Consultants Association; and

(H) Missouri Bar Association approved Continuing Legal Education.

[(2)] **(4)** *[CEC]* **Continuing education credit (CEC)** hours may be earned through the following:

(A) Classroom instruction with a maximum credit of sixteen (16) CEC hours per course.

(B) A course leading to a professional designation when the licensee receives a passing grade. Maximum credit is sixteen (16) CEC hours per course. If the licensee does not receive a passing grade, s/he may receive credit pursuant to the requirements of subsection *[(2)]***(4)**(A)*[; and]***.**

(C) Self-Study Courses. The licensee must pass a proctored exam to receive credit. The maximum allowable credit for self-study courses is sixteen (16) CEC hours per course.

1. The credit hours for a self-study course will be determined by the following method:

A. Workbooks or other printed material—Page count of fifteen (15) pages will equal one (1) credit hour;

B. Computer based courses or Internet courses will be calculated as: three (3) screens (750 words) will equal one (1) printed page and forty-five (45) screens will equal one (1) credit hour.

2. The proctored exam must have at least twenty-five (25) questions and the exam will be awarded one (1) credit hour for every twenty-five (25) questions.

3. Open book examinations will not be allowed. The licensee will not be allowed access to books, notes, or any other reference material or information that would give them the answers to the examination questions.

[(3)] **(5)** A provider of classroom instruction, a course leading to a professional designation or a self-study course must seek approval from the director by completing the form "Continuing Education Provider Application for Course Approval," which can be accessed at the department's website at www.insurance.mo.gov. The form contains the requirements for obtaining course approval. Incomplete applications that are returned to the applicant for additional information must be resubmitted in their entirety prior to the course presentation date. Credit will not be given to licensees for attending courses prior to the course approval date.

[(4)] **(6)** All course providers must furnish the form "Continuing Education Certificate of Course Completion" to any insurance producer who earns CEC hours after completing an approved course. The form contains record keeping requirements for insurance producers and providers. The form can be accessed at the department's website at www.insurance.mo.gov.

[(5)] **(7)** Insurance producers must submit the form "Continuing Education Certification Summary" to the director to show compliance with section 375.020, RSMo. The form can be accessed at the department's website at www.insurance.mo.gov.

[(6)] **(8)** Producers taking self-study courses must have the exam proctor complete the form "Affidavit of Exam Proctor" to show compliance with section 375.020, RSMo, and return the form to the provider. The form can be accessed at the department's website at www.insurance.mo.gov.

[(7)] **(9)** Within thirty (30) days of the date a course is completed by a licensee, providers shall notify the director of the credit hours earned by a licensee in an electronic form as prescribed by the director. Specifications may be obtained by contacting the Licensing Section of the department.

(A) For good cause shown, the director or the director's designee may by written order waive application of the provisions of this section of the rule. The extent of the waiver will be governed by the terms of the written order granting the waiver.

[(8)] **(10)** A licensee may not repeat a course for credit during the same renewal period.

[(9)] **(11)** Courses that were taken prior to the date of the Missouri license will not be allowable for credit as continuing education. Also, courses taken for a specific line type prior to adding that line will not be allowed for credit.

[(10)] **(12)** The department may audit the approved courses or the insurance producer's continuing education records at any time.

[(11)] **(13)** Failure of providers to comply with the statute or regulation may result in revocation of the courses and/or corrective action against the provider.

[(12)] **(14)** Reporting Period.

(A) All resident insurance producers must file the Continuing Education Certification Summary listing the completed courses approved by the *[Missouri Department of Insurance]* **department**.

(B) All nonresident insurance producers must file a current and original certification letter showing compliance with continuing education requirements in their resident state. If the individual is a resident of a state that participates in Producer Data Base (PDB), a letter of certification is not required. Nonresident producers who reside in a state that does not require continuing education must complete continuing education courses approved by the *[Missouri Department of Insurance]* **department**, and must list completed courses on the Continuing Education Certification Summary.

(C) Resident and nonresident producers must show proof of compliance with the continuing education requirements at the time of their biennial license renewal.

[(13)] **(15)** Any life insurance producer claiming an exemption from the continuing education requirements under section 375.020.9, RSMo must file a "Continuing Education Exemption Certification" form with the director at the time of his/her biennial license renewal. The "Continuing Education Exemption Certification" form can be accessed at the department's website at www.insurance.mo.gov.

AUTHORITY: section 374.045, RSMo 2000. This rule was previously filed as 4 CSR 190-12.130. Original rule filed Aug. 8, 1999, effective Nov. 13, 1989. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 4—Utilization Review

PROPOSED AMENDMENT

20 CSR 700-4.100 Utilization Review. The department is amending section (1).

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule.

(1) A utilization review agent may not conduct utilization review in this state without a certificate of registration issued by the director of **the d***[D]*epartment *[of Insurance, Financial Institutions and Professional Registration (the director)]*. The application for a certificate shall be submitted to the department on the form approved by this rule. The application shall be signed by the applicant or, if the applicant is a corporation, by an officer or, if the applicant is a partnership, by one (1) of the partners. The application shall be accompanied by an application fee of one thousand dollars ($1,000).

AUTHORITY: sections 374.515 and 376.1399, RSMo 2000. Emergency rule filed Nov. 1, 1991, effective Nov. 11, 1991, expired March 10, 1992. Original rule filed Nov. 1, 1991, effective May 14, 1992. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Dec. 3, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 6—Bail Bond Agents and Surety Recovery Agents

PROPOSED AMENDMENT

20 CSR 700-6.100 Applications, Fees and Renewals—Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents. The department is amending section (3) of this rule.

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

(3) Failure to Timely Apply for Renewal. If a general bail bond agent, bail bond agent or surety recovery agent fails to file for renewal of his/her license on or before the expiration date, the *[Department of Insurance]* **department** will issue a renewal of the license upon payment of a late renewal fee of twenty-five dollars ($25) per month or fraction of a month after the renewal deadline. In the alternative to payment of a late renewal fee, the former licensee may apply for a new license except that the former licensee must comply with all provisions of sections 374.710 and 374.784, RSMo regarding issuance of a new license.

*AUTHORITY: sections 374.045, RSMo 2000 and 374.705, 374.710, 374.730, 374.783, 374.784 and 374.786, RSMo Supp. [2005] **2006**. Original rule filed March 14, 1994, effective Sept. 30, 1994. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 6—Bail Bond Agents and Surety Recovery Agents

PROPOSED AMENDMENT

20 CSR 700-6.150 Initial Basic Training for Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents. The department is amending section (2) of this rule.

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

(2) Authorized Educational Providers.

(B) Each course provider and each course must be approved by the director. Application forms for this approval are available on the department's website at www.insurance.mo.gov and at the *[Department of Insurance]* **department**. In order for the director to review applications for approval, the following must be submitted:

1. The provider's application must include each instructor's qualifications and a listing of dates and times of all scheduled courses. Upon approval of the course, notification will be returned to the provider indicating the course number assigned by the *[Department of Insurance]* **department**. Once approved, subsequent courses with a schedule of dates and times the course will be offered must be submitted thirty (30) days prior to holding the course.

2. A course outline prepared by each instructor which demonstrates the topics to be taught and the time that will be devoted to each topic. Course outlines shall indicate a sufficient amount of time for each subject area and must include all subjects as listed in this section.

3. An application fee of one hundred dollars ($100) must be submitted with the provider and course application. Personal checks are not accepted.

4. The cost per student for the twenty-four (24)-hour initial basic training which shall not exceed two hundred dollars ($200).

(C) All approved course providers shall complete a class roster in the form approved by the department indicating all course attendees for each day classes are held which shall be sent to the *[Missouri Department of Insurance]* **department** within thirty (30) days of completion of the course.

(E) The *[Missouri Department of Insurance]* **department** may audit the approved courses at any time.

(G) Class roster and Certificate of Completion of Initial Basic Training forms are available on the department's website at www.insurance.mo.gov and at the *[Department of Insurance]* **department**.

*AUTHORITY: sections 374.045, RSMo 2000 and 374.705, 374.710 and 374.784, RSMo Supp. [2004] **2006**. Original rule filed Sept. 14, 2004, effective March 30, 2005. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 6—Bail Bond Agents and Surety Recovery Agents

PROPOSED AMENDMENT

20 CSR 700-6.160 Continuing Education for Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents. The department is amending the purpose clause and sections (1) and (13).

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

PURPOSE: This rule establishes procedures with regard to the continuing education requirements contained in sections 374.710 and 374.784, RSMo [Supp. 2004].

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

(K) Director—the director of the Department of Insurance, **Financial Institutions and Professional Registration** or his/her designee;

(L) Licensee—a person who is licensed by the *[Missouri Department of Insurance (MDI)]* **department** as a bail bond agent, general bail bond agent or surety recovery agent;

(13) Reporting Period.

(A) All resident and nonresident bail bond agents, general bail bond agents and surety recovery agents must file the Continuing Education Certification Summary listing the completed courses approved by the *[Missouri Department of Insurance]* **department** at the time of their biennial license renewal.

*AUTHORITY: sections 374.045, RSMo 2000 and 374.705, 374.710 and 374.784, RSMo Supp. [2004] **2006**. Original rule filed Sept. 14, 2004, effective March 30, 2005. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 6—Bail Bond Agents and Surety Recovery Agents

PROPOSED AMENDMENT

20 CSR 700-6.170 Change of Status Notification for Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents. The department is amending the purpose clause of this rule.

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

*PURPOSE: This rule sets the requirements for notification of the Department of Insurance**, Financial Institutions and Professional Registration** of a change in status of specified information provided on the original application.*

*AUTHORITY: sections 374.045, RSMo 2000 and 374.705, 374.710 and 374.784, RSMo Supp. [2004] **2006**. Original rule filed Sept. 14, 2004, effective March 30, 2005. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 6—Bail Bond Agents and Surety Recovery Agents

PROPOSED AMENDMENT

20 CSR 700-6.200 Assignment and Acknowledgement. The department is amending the purpose clause and sections (1) and (3) of this rule.

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

PURPOSE: This rule is intended to clarify the procedure for the asset assignment requirement under sections 374.715 and 374.740, RSMo [Supp. 2004].

(1) The ten thousand dollar ($10,000)- or twenty-five thousand dollar ($25,000)-asset or assets required by sections 374.715 and 374.740, RSMo*[,]* shall be held in the name of the general bail bond agent with the state of Missouri, director of the *[D]***d**epartment *[of Insurance]* as assignee. The general bail bond agent applicant shall submit with the general bail license application, the fee stated in section (1) of 20 CSR 700-6.100, the Assignment, a completed Acknowledgement of Assignment from the financial institution issuing the Certificate of Deposit, and the original Certificate of Deposit.

(3) The Assignment form and the Acknowledgement of Assignment and Release of Assignment form are available on the department website at www.insurance.mo.gov and at the offices of the *[Department of Insurance]* **department**.

*AUTHORITY: sections 374.045, RSMo 2000 and 374.705, 374.710 and 374.784, RSMo Supp. [2004] **2006**. Original rule filed Oct. 15, 1996, effective May 30, 1997. Amended: Filed Sept. 14, 2004, effective March 30, 2005. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 6—Bail Bond Agents and Surety Recovery Agents

PROPOSED AMENDMENT

20 CSR 700-6.250 Assignment of Additional Assets. The department is amending the purpose clause and section (2) of this rule.

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration." For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

PURPOSE: This rule effectuates and aids in the interpretation of the provisions of sections 374.715 and 374.740, RSMo [Supp. 2004], involving the conditions under which an assignment of additional assets to the director will be required of a general bail bond agent.

(2) In the event that the general bail bond agent receives notice from the department that the assignment of additional assets is required, the general bail bond agent shall obtain a Certificate of Deposit in the name of the general bail bond agent for the amount requested by the department. The original Certificate of Deposit, an Assignment, and a completed Acknowledgement of Assignment from the financial institution issuing the Certificate of Deposit shall be submitted to the department within twenty (20) working days of receipt of the notice by the general bail bond agent. Acknowledgement of Assignment forms are available on the department website at www.insurance.mo.gov and at the offices of the Department of Insurance**, Financial Institutions and Professional Registration**.

*AUTHORITY: sections 374.045, RSMo 2000 and 374.705, 374.715 and 374.740, RSMo Supp. [2004] **2006**. Original rule filed Sept. 14, 2004, effective March 30, 2005. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 6—Bail Bond Agents and Surety Recovery Agents

PROPOSED AMENDMENT

20 CSR 700-6.300 Affidavits. The department is amending the purpose clause and section (1) of this rule.

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "Department of Insurance, Financial Institutions and Professional Registration."

PURPOSE: This rule establishes the location of the affidavit form required to be filed monthly pursuant to section 374.760, RSMo [Supp. 2004].

(1) The Affidavit form required to be filed between the first and the tenth day of each month by each general bail bond agent in order to comply with the provisions of section 374.760, RSMo*[,]* is available on the department website at www.insurance.mo.gov. and at the offices of the Missouri Department of Insurance**, Financial Institutions and Professional Registration**.

*AUTHORITY: sections 374.045 and 374.760, RSMo 2000 and 374.705, RSMo Supp. [2004] **2006**. Original rule filed Oct. 15, 1996, effective May 30, 1997. Amended: Filed April 23, 1999, effective Nov. 30, 1999. Amended: Filed Sept. 14, 2004, effective March 30, 2005. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—*Insurance* Licensing
Chapter 7—Reinsurance Intermediary

PROPOSED AMENDMENT

20 CSR 700-7.100 Reinsurance Intermediary License. The department is amending sections (3), (4) and (5) of this rule.

PURPOSE: This amendment reflects the change in name from the "Department of Insurance" to the "department", as department is defined in proposed rule 20 CSR 700-1.005. Furthermore, this amendment may correct any minor grammatical or spelling errors.

(3) In order to obtain a license as a reinsurance intermediary-broker (RB), all of the following must be met:

(B) Pay a nonrefundable application fee of one hundred dollars ($100) to the *[Department of Insurance]* **department**; and

(4) In order to obtain a license as a RM the following must be met:

(B) Pay a nonrefundable application fee of one hundred dollars ($100) to the *[Department of Insurance]* **department**; and

(5) If the applicant, and all names listed as reinsurance intermediaries on the application, meet the qualifications under sections 375.1110–375.1140, RSMo, the *[Department of Insurance]* **department** will issue the applicant a reinsurance intermediary license.

AUTHORITY: sections 374.045.1(2) [and (3)], RSMo 2000 ***and 374.705, RSMo Supp. 2006****. This rule previously filed as 20 CSR 200-2.600. Original rule filed Dec. 17, 1991, effective June 25, 1992. Amended: Filed Feb. 24, 1995, effective Oct. 30, 1995. Amended: Filed April 23, 1999, effective Nov. 30, 1999. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed Nov. 30, 2007.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

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

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

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

Title 2—DEPARTMENT OF AGRICULTURE
Division 110—Office of the Director
Chapter 3—Missouri Renewable Fuel Standard

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 414.255.7, RSMo Supp. 2006, the department adopts a rule as follows:

2 CSR 110-3.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1170–1174). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Agriculture received comments from sixteen (16) different sources on the proposed rule.

COMMENT #1: A comment was received indicating that, to be consistent with section 414.255.7, RSMo the words "and consistency" should be inserted directly after the word "compliance" in the first sentence of subsection (l)(A) of the proposed rule.

RESPONSE AND EXPLANATION OF CHANGE: The department has revised the first sentence of subsection (1)(A) and added the words "and consistency" after the word "compliance."

COMMENT #2: A comment was received indicating that the terms "wholesale distributor" and "wholesale purchaser consumer" were confusing and were not authorized or contemplated by section 414.255, RSMo.

RESPONSE AND EXPLANATION OF CHANGE: The department has eliminated any references to "wholesale distributor" or "wholesale purchaser consumer" and deleted subsections (2)(M) and (2)(N).

COMMENT #3: Comments were received indicating that in subsection (3)(A) in the second sentence the words "wholesale distributor" should be replaced with "position holders or suppliers."

RESPONSE AND EXPLANATION OF CHANGE: The department has revised the second sentence in subsection (3)(A) by replacing the words "wholesale distributor" with "position holders or suppliers."

COMMENT #4: Comments were received indicating that price comparisons between fuel ethanol or fuel ethanol-blended gasoline and unblended gasoline should not be limited to only qualified terminals.

RESPONSE AND EXPLANATION OF CHANGE: The department has eliminated the word "qualified" in any reference to price comparisons at terminals.

COMMENT #5: Comments were received indicating that price comparisons between fuel ethanol or fuel ethanol-blended gasoline and unblended gasoline should include prices at all terminals and bulk plants.

RESPONSE: Section 414.255, RSMo uses the phrase "all terminals" in section 8. However, this phrase is not found in subsection 4., which contains the price comparison requirements. Instead, subsection 4. states that price comparisons are to be made at "the terminal." Furthermore, there are approximately thirty (30) different terminals serving Missouri and approximately two hundred seventy-eight (278) bulk plants in the state. The department believes it would be impractical, unfeasible, and onerous to require price comparisons to be made at all three hundred eight (308) facilities at the time of every purchase. Therefore, no changes have been made to the rule as a result of this comment.

COMMENT #6: Comments were received indicating that the department should use the price associated with bulk gasoline transactions on the Gulf Coast or at other refinery or pipeline origins to determine the price of gasoline for compliance purposes. Another commenter suggested that the department should utilize the closing price of the Chicago Board of Trade's ethanol quote to establish a daily or weekly average ethanol price.

RESPONSE: Subsection 4. of section 414.255, RSMo which contains the price comparison requirements, states that price comparisons are to be made at "the terminal". Subsection 4. of section 414.255, RSMo and subsection (3)(C) of the proposed rule also give the department the ability to determine the actual acquisition price of ethanol and unblended fuel by position holders, suppliers, and distributors at the terminal. Therefore, no changes have been made to the rule as a result of these comments.

COMMENT #7: A comment was received indicating that the fuel price comparison should be between fuels with equivalent octane ratings so the price of ethanol-blended fuel should be compared with the price of premium unblended gasoline to determine relative costs.

RESPONSE: Premium gasoline is defined in section 414.255, RSMo as gasoline with an antiknock index number of ninety-one (91) or greater. Subsection 4. of section 414.255, RSMo, which contains the price comparison requirements, does not include any mention of premium gasoline. Therefore, no changes have been made to the rule as a result of these comments.

COMMENT #8: A comment was received indicating that the final sentence of subsection (3)(A) contradicted the intent of subsection 414.255.9, RSMo and should be deleted.
RESPONSE AND EXPLANATION OF CHANGE: The department has deleted the final sentence of subsection (3)(A).

COMMENT #9: Comments were received indicating that "ultimate vendor" should be added to the first sentence of (3)(B) to be consistent with subsection 414.255.4, RSMo.
RESPONSE AND EXPLANATION OF CHANGE: The department has added "ultimate vendor" to the first sentence of (3)(B).

COMMENT #10: A department employee commented that "contractual supplier" in the second sentence of (3)(B) should be replaced with "position holder or supplier" to be consistent with subsection 414.255.4, RSMo.
RESPONSE AND EXPLANATION OF CHANGE: The department has replaced "contractual supplier" in the second sentence of (3)(B) with "position holder or supplier."

COMMENT #11: A department employee commented that record keeping requirements for exempt purchases of unblended gasoline should be added to (3)(B).
RESPONSE AND EXPLANATION OF CHANGE: The department has added a third sentence to (3)(B) describing the records and source documents that must be maintained for exempt purchases of unblended gasoline.

COMMENT #12: A wide variety of comments were received regarding the department's ability to obtain and verify the information needed to implement section 414.255, RSMo. Some commenters were concerned that the department may not have access to all the price information necessary. For example, customers with contractually-agreed to price arrangements will likely often have prices that are not available to or will be different from non-contractual customers that decide to shop at the terminal and these contractual agreements might not be considered public documents. Another commenter indicated that the department's ability to "examine records, documents, books, premises and products" was too broad, was unnecessary, and was not authorized or intended by subsection 414.255.4, RSMo. This commenter also indicated that subsection (3)(C) of the rule should be narrowed further so that the position holder, supplier, distributor, and ultimate vendor would be required to only submit information they considered relevant and pertinent. Yet another commenter indicated that the department's ability to examine source documents, premises and products was essential to ensuring compliance with section 414.255, RSMo.
RESPONSE: Section 414.255.4, RSMo states that "The position holder, supplier, distributor, and ultimate vendor shall, upon request, provide the required documentation regarding the sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline to the department of agriculture and the department of revenue. All information obtained by the departments from such sources shall be confidential and not disclosed except by court order or as otherwise provided by law." This statutory language provides the department access to contractual documents, subject to confidentiality requirements. Furthermore, in addition to the ability to request and receive information from relevant parties, the department clearly must also be able to examine "records, documents, books, premises, and products" in order to verify the accuracy of the information provided and to fulfill its responsibility to ensure implementation of, and compliance and consistency with, section 414.255, RSMo. Therefore, no changes have been made to the rule as a result of these comments.

COMMENT #13: A comment was received indicating that the three (3) year record retention period is unreasonable.
RESPONSE: Three (3) years is the standard record retention period in both state and federal regulatory programs. Therefore, no change has been made to the rule as a result of this comment.

COMMENT #14: Comments were received indicating that section 414.255, RSMo could cause violations of federal environmental law due to the co-mingling of unblended gasoline with ethanol-blended gasoline. Another commenter stated that the department must address the conflict between state and federal law and must specifically allow fuel co-mingling as part of its rulemaking.
RESPONSE: The department does not believe that section 414.255, RSMo in any way addresses the co-mingling of unblended and ethanol-blended gasoline nor does the department believe the proposed rule should address this issue. There is nothing in the statute or the proposed rule that requires a distributor to purchase unblended gasoline at any time. Obviously, in the event unblended gasoline is less expensive than ethanol-blended fuel, the economically motivated choice for the distributor would be to purchase the unblended fuel. This decision, however, remains the distributor's choice. Should a distributor decide to take advantage of the economic allowance at the terminal, they are still responsible for ensuring their compliance with the appropriate regulations and for weighing any additional cost associated with ensuring this compliance against the decision to take advantage of the price differential at the terminal. Therefore, no changes have been made to the rule as a result of these comments.

COMMENT #15: Comments were received indicating concern with subsections 8. and 9. of section 414.255, RSMo. Specifically, there were concerns regarding how trademark holders would be able to protect their trademark value within a distribution system that requires them to make products available to any and all customers without regard to contractual obligations.
RESPONSE: The department does not believe that section 414.255, RSMo or the proposed rule compromise trademarks or trademark law in any way. Therefore, no changes have been made to the rule as a result of these comments.

COMMENT #16: Comments were received indicating concern with subsection (3)(F) of the proposed rule, which required terminals to maintain an adequate supply of ethanol.
RESPONSE AND EXPLANATION OF CHANGE: Subsection 8. of section 414.255, RSMo states that "All terminals in Missouri that sell gasoline shall offer for sale, in cooperation with position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline." It is difficult to understand how ethanol-blended gasoline and fuel ethanol can realistically be offered for sale without the availability of an adequate supply. However, since the department believes an adequate supply of ethanol is clearly implied by statute, the explicit reference to an "adequate supply" is unnecessary and has been eliminated.

COMMENT #17: A comment was received indicating that the rule must specifically allow "splash-blending." Another commenter questioned whether or not an out-of-state terminal will be able to load unblended product at one terminal and splash blend with ethanol prior to retail delivery in the state of Missouri.
RESPONSE: The department believes that splash-blending is clearly an allowable activity under section 414.255, RSMo and the proposed rule. However, it would be problematic to attempt to assemble an all-inclusive list of allowable activities under these provisions. Therefore, no changes have been made to the rule as a result of these comments.

COMMENT #18: The department received several comments from marinas, oil companies, and boat owners indicating that ethanol-blended gasoline will have a substantial and adverse impact on the marine industry in Missouri and requesting an exemption from the requirement to sell ethanol-blended fuel.

RESPONSE AND EXPLANATION OF CHANGE: Section 414.255.5, RSMo identifies uses that are exempt from the requirements of the Missouri Renewable Fuel Standard Act and authorizes the director of the Department of Agriculture, by rule, to exempt or rescind additional gasoline uses from the requirements of section 414.255, RSMo. Therefore, after careful and deliberate consideration by the director of agriculture, paragraph (3)(G)6. has been added to the proposed rule to exempt marinas that sell fuel exclusively to watercraft.

COMMENT #19: The department received a comment from an aircraft owner indicating concern with the availability of 87 octane unleaded auto fuel for use in older aircraft.
RESPONSE: Section 414.255.5(1), RSMo and subsection (3)(G) of the proposed rule exempt aviation fuel and automotive gasoline used in aircraft. Therefore, no changes have been made to the rule as a result of these comments.

COMMENT #20: The department received a comment from a historic motorcycle owner indicating concern with the lack of customer notification regarding ethanol-blended fuels and requesting appropriate signage requirements.
RESPONSE: Signage requirements are not addressed by section 414.255, RSMo or the proposed rule. Therefore, no changes have been made to the rule as a result of these comments.

2 CSR 110-3.010 Description of General Organization; Definitions; Requirements and Exemptions; Enforcement Provisions

(1) General Organization.

(A) The director of the Department of Agriculture (MDA) is authorized to ensure implementation of, and compliance and consistency with, the Missouri Renewable Fuel Standard Act (MRFSA). The MRFSA requires that, unless otherwise provided, on and after January 1, 2008 all gasoline sold or offered for sale in Missouri at retail shall be ten percent (10%) fuel ethanol-blended gasoline. The MDA and the Department of Revenue (DOR) are authorized to obtain documentation from relevant parties regarding the sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline.

(3) Requirements and Exemptions.

(A) On and after January 1, 2008, all gasoline sold or offered for sale in Missouri at retail shall be fuel ethanol-blended gasoline, unless a distributor is unable to obtain fuel ethanol or fuel ethanol-blended gasoline from a position holder or supplier at the terminal at the same or lower price as unblended gasoline. Price comparisons are to be made between position holders or suppliers at a particular terminal, not by price comparisons between terminals.

(B) For each purchase of unblended gasoline from a position holder or supplier at the terminal, the position holder, supplier, distributor, and ultimate vendor shall maintain accurate purchase and disposition records and source documents for at least three (3) years. The records and source documents must, in their entirety, be sufficient to verify the price and quantity available at the terminal for fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline for each position holder or supplier at the terminal at the time of each purchase of unblended gasoline. If the unblended gasoline is to be used for exempt purchases as described in (3)(G) of this rule, records and source documents must include the quantity purchased, destination, date, and the category of exemption.

(C) The position holder, supplier, distributor, and ultimate vendor shall, upon request, and within thirty (30) days of receiving such a request, provide documentation within their purview or control regarding the sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline to the Department of Agriculture and/or the Department of Revenue. The departments may examine records, documents, books, premises, and products of such entities to determine the validity of all documentation provided and to determine compliance with the provisions of section 414.255, RSMo and this rule. All information obtained by the departments from such sources shall be confidential and not disclosed except by court order or as otherwise provided by law. Any documentation provided to the departments will be considered received by the departments on the:

1. Postmark date for items delivered by the United States Postal Service;

2. Actual date received by the departments for items delivered by any other carrier service; or

3. Actual date received for information received by facsimile or email within the departments' Jefferson City, Missouri central office.

(D) Any delivery of unblended gasoline to an ultimate vendor or consumer shall include notification by the distributor on a bill of lading, invoice, delivery ticket, or some other document of the quantity of unblended gasoline delivered and that the distributor was unable to purchase fuel ethanol or fuel ethanol-blended gasoline from a position holder or supplier at the terminal at the same or lower price as unblended gasoline.

(E) All terminals in Missouri that sell gasoline shall offer for sale, in cooperation with position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline. Terminals that only offer for sale federal reformulated gasolines, in cooperation with position holders and suppliers, shall not be required to offer for sale unblended gasoline.

(F) Notwithstanding any other law to the contrary, all fuel retailers, wholesalers, distributors, and marketers shall be allowed to purchase fuel ethanol from any terminal, position holder, fuel ethanol producer, fuel ethanol wholesaler, or supplier. In the event a court of competent jurisdiction finds that this subsection does not apply to or improperly impairs existing contractual relationships, then this subsection shall only apply to and impact future contractual relationships.

(G) The following shall be exempt from the provisions of section 414.255, RSMo and this rule.

1. Aviation fuel and automotive gasoline used in aircraft;

2. Premium gasoline;

3. E75-E85 fuel ethanol;

4. Any specific exemptions declared by the United States Environmental Protection Agency;

5. Bulk transfers between terminals; and

6. Marinas that sell fuel exclusively to watercraft.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 5—Prevailing Wage Arbitration

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Labor and Industrial Relations under section 290.240.2., RSMo 2000, the department adopts a rule as follows:

8 CSR 30-5.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 4, 2007 (32 MoReg 1466–1467). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Labor and Industrial Relations received four (4) comments from two (2) entities regarding proposed rule 8 CSR 30-5.010.

COMMENT #1: Associated Builders and Contractors, Inc. noted that the proposed rules do not address whether the controlling statutes will be the Missouri arbitration statutes or the federal arbitration statutes and requested that the regulation clearly articulate the controlling statute.
RESPONSE: The statute does not address the controlling authority and the department believes this issue is not properly addressed in the regulation. Therefore, the rule was not changed.

COMMENT #2: Associated Builders and Contractors, Inc. stated that proposed rule 8 CSR 30-5.010 is unclear as to how the time frame in which an employer can respond to a request for arbitration coincides with the forty-five (45)-day period for an employer to dispute the notice of penalty. Associated Builders and Contractors, Inc. suggested that the employer's forty-five (45)-day period to dispute a notice of violation should not be reduced, and that the rule should be clarified to this extent.
RESPONSE: The department does not think that a change is necessary because the proposed rule is clear. The department does not interpret the proposed rule as decreasing the forty-five (45)-day opportunity for the employer to dispute the notice of violation in any circumstances. Therefore, the rule was not changed based on this comment.

COMMENT #3: Associated Builders and Contractors, Inc. commented that proposed rule 8 CSR 30-5.010(1) and (2), which allow the department to establish criteria for arbitrators, present the appearance of granting the department an unfair advantage, as a participant in the arbitration process. Associated Builders and Contractors, Inc. suggested that the rule be amended so that, if the parties cannot agree on an arbitrator in advance, then neither party would have the ability to impose criteria on the arbitrator.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that an open-ended grant to the department to establish criteria for arbitrators could appear to give the department an unfair advantage, as a participant in the arbitration process. The purpose of this provision was an attempt to keep the costs of arbitration down by regulating the amount that the arbitrator could charge per hour and for travel to the arbitration site. Therefore, the rule has been changed to remove the department's open-ended authorization to impose criteria. The department has retained the provision allowing it to impose criteria relating to residence and hourly rates, in an effort to regulate the costs of arbitration.

COMMENT #4: Strategic Workplace Solutions, Inc. requested that the Federal Mediation and Conciliation Service (FMCS) be added to 8 CSR 30-5.010(1) as another option along with the American Arbitration Association (AAA).
RESPONSE: The department believes that the statement "AAA or other arbitration service provider if the other arbitration service provider is mutually agreed to by the parties" is sufficient to allow the parties to agree on an arbitrator provided by FMCS or by another provider. No change was made to the rule as a result of this comment.

8 CSR 30-5.010 Filing for Arbitration

(1) An employer shall have forty-five (45) days from the date of notice of penalty for violations of sections 290.210 to 290.340, RSMo, to dispute the notice of penalty. Upon receipt of the written notice of dispute from the employer, the department shall notify the employer of its right to arbitration. Within ten (10) days of an employer's notification of the right to arbitration, an employer that wishes to arbitrate the matter shall submit to the department a Request for Arbitration (Request) along with any filing fees required by the arbitration service provider. Request for Arbitration forms may be obtained by contacting the Division of Labor Standards. The date of submission of a Request is the date the Request is postmarked or the date the department receives the Request by facsimile. Within ten (10) days of the department's receipt of a request under this rule, the department shall mail a copy of the Request along with the department's guidelines for arbitration to the American Association of Arbitration (AAA) or other arbitration service provider if the other arbitration service provider is mutually agreed to by the parties. Included in this information shall be the department's criteria for arbitrators relating to residence and cost per hour.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 5—Prevailing Wage Arbitration

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Labor and Industrial Relations under section 290.240.2., RSMo 2000, the department adopts a rule as follows:

8 CSR 30-5.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 4, 2007 (32 MoReg 1468–1471). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Labor and Industrial Relations received three (3) comments from one (1) entity regarding proposed rule 8 CSR 30-5.020.

COMMENT #1: Associated Builders and Contractors, Inc. noted that the proposed rules do not address how a record will be kept of the arbitration proceedings and whether a transcript is required as part of the record. Associated Builders and Contractors, Inc. further noted that the proposed rules do not state whether a transcript requires the mutual consent of both parties, or whether it can be required upon one party's request. Finally, Associated Builders and Contractors, Inc. questioned how the cost of a transcript would be allocated.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that these issues should be addressed in the rules. 8 CSR 30-5.020 has been amended by adding a new section to reflect that all arbitration hearings will be tape-recorded, and that the parties can mutually agree to have a written transcript prepared and to share the cost, or that either party may request a written transcript upon paying the full cost. The rule has also been amended to require a time period during which a transcript may be requested; after such time the arbitrator may destroy the tape-recording. This information is added in a new section (9) and the subsequent sections have been renumbered to reflect that addition.

COMMENT #2: Associated Builders and Contractors, Inc. suggested that proposed rule 8 CSR 30-5.020 be amended to state that all costs of arbitration are paid by the department if the arbitrator rules against the department's position.
RESPONSE: In drafting the rule, the department varied from the usual practice in arbitration (where the losing party pays all) to a system where the parties split the costs of arbitration equally, in an effort to lower the overall costs for employers and to encourage small businesses to participate in the arbitration process. While the department acknowledges that this rule might result in higher costs for some prevailing employers, the department anticipates that, overall, it will greatly decrease the costs for employers. Therefore, the department declines to change the proposed rule.

COMMENT #3: Associated Builders and Contractors, Inc. noted that proposed rule 8 CSR 30-5.020 does not clearly define the post-award legal process or whether state or federal law controls. Associated Builders and Contractors, Inc. suggested that the rule be amended to clarify the parties' post-arbitration rights, the process by which the department can enforce an arbitration award, and the process for an employer to obtain judicial review. Associated Builders and Contractors further suggested that the department ensure that the parties' rights are consistent with the statutory language.

RESPONSE: The department believes that the statute and proposed rule 8 CSR 30-5.030(5) clearly define the post-arbitration legal rights of the parties. The rule was not changed based on this comment.

8 CSR 30-5.020 Hearing Procedures for Arbitration

(9) Recording and Transcripts. All hearings shall be tape-recorded. The tape-recording shall be retained by the arbitrator for a period in concurrence with the statute of limitations for an employee to bring a private action for the recovery of wages. Either party may request a written transcript at any time within this period, and the requesting party will bear the cost of the transcript, unless otherwise agreed by the parties.

(10) Communication with the Arbitrator. There shall be no direct communication between the parties and the arbitrator on substantive matters relating to the case other than at oral hearings, unless the parties and the arbitrator agree otherwise. Any other oral or written communication from the parties to the arbitrator shall be directed to the arbitration service provider for transmittal to the arbitrator.

(11) Closing the Hearing. The arbitrator shall inquire of all parties whether they have any additional exhibits or witnesses to present. The arbitrator shall afford each party the opportunity to present an oral closing statement. Once both parties indicate that they have no more evidence to present or the arbitrator determines that all necessary relevant and non-duplicative evidence has been presented and the record is complete, the arbitrator shall declare the hearing to be closed. If briefs or other documents are to be filed, the hearing shall be declared closed as of the final date set by the arbitrator for filing with the arbitration service provider or directly with the arbitrator. The time limit within which the arbitrator is required to make an award shall begin to run, in the absence of another agreement by the parties, on the closing date of the hearing.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 5—Prevailing Wage Arbitration

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Labor and Industrial Relations under section 290.240.2., RSMo 2000, the department adopts a rule as follows:

8 CSR 30-5.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 4, 2007 (32 MoReg 1472). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Labor and Industrial Relations received three (3) comments from one (1) entity regarding proposed rule 8 CSR 30-5.030.

COMMENT #1: Strategic Workplace Solutions, Inc. commented that the requirement in 8 CSR 30-5.030(1)(B) and (C) that the arbitrator's award be sent to the parties via the arbitration service provider is not consistent with the normal practice of arbitration, which is for the arbitrator to send the award directly to the parties. Strategic Workplace Solutions, Inc. noted that the arbitration service providers do not ordinarily receive or retain copies of the arbitrator's awards.

RESPONSE AND EXPLANATION OF CHANGE: 8 CSR 30-5.030(1)(B) and (C) have been amended to allow the arbitrator to send the award directly to each party.

COMMENT #2: Strategic Workplace Solutions, Inc. noted that 8 CSR 30-5.030(2) requires the parties to notify the arbitrator if they wish to have a written opinion prepared. Strategic Workplace Solutions, Inc. noted that the normal practice of arbitrators is to prepare a written opinion in all cases. Strategic Workplace Solutions, Inc. suggested that, if the rule remains as it is, it should more clearly state that a written opinion should not be prepared automatically, and the terms "opinion" and "award" should be defined. Strategic Workplace Solutions, Inc. questioned whether costs would be significantly reduced by removing the automatic written opinion. Finally, Strategic Workplace Solutions, Inc. suggested that the notification of whether an opinion should be prepared should be sent to the arbitrator, not to the arbitration service provider.

RESPONSE AND EXPLANATION OF CHANGE: The department included the provision that a written opinion will only be included upon request as a method of reducing the costs of arbitration, particularly for small businesses. The department believes that this provision is beneficial in reducing costs. The department also believes that it is clear from the rule that an arbitrator is not to issue a written opinion unless requested by the parties. No changes were made to the rule as a result of these parts of the comment. Upon consideration of this comment, section (2) has been changed to provide that the parties shall notify the arbitrator—not the arbitration service provider—whenever they desire to have a written opinion prepared. The rule has also been changed to reflect that an opinion is a writing explaining the reasoning for the award.

COMMENT #3: Strategic Workplace Solutions, Inc. noted that 8 CSR 30-5.030(4)'s requirement that the arbitration service provider provide certified copies of all documents in the arbitration service provider's possession for use in judicial proceedings is not consistent with the usual arbitration practice, where the service provider does not actually possess any documents. Strategic Workplace Solutions, Inc. suggested that this be changed to require the arbitrator to provide the documents. Strategic Workplace Solutions, Inc. also suggested that the term "certified" be explained.

RESPONSE AND EXPLANATION OF CHANGE: After considering this comment, section (4) has been changed to require the arbitrator—not the arbitration service provider—to provide certified copies of documents for use in judicial proceedings. The rule has also been revised to include a statement of what is meant by "certified."

8 CSR 30-5.030 Awards by the Arbitrator

(1) Time of Determination.

(B) The determination shall be deemed to be rendered on the date it is postmarked or otherwise transmitted to the parties by the arbitrator, whether by regular mail or electronically. Decisions cannot be rendered by telephone.

(C) If a determination is transmitted electronically or by facsimile, the arbitrator shall promptly deliver an original to the parties.

(2) Form of the Arbitration Award. The arbitration award shall be in writing and shall be signed by the arbitrator. A party shall advise the arbitrator in writing, by no later than the conclusion of the hearing, whenever it would like the arbitrator to accompany the arbitration award with an opinion explaining the reasoning for the award. All costs incurred as a result of the opinion shall be paid by the party who requested the opinion. If both parties request the opinion, all costs incurred as a result of the opinion shall be divided evenly between the parties.

(4) Release of Documents for Judicial Proceedings. The arbitrator shall, upon the written request of a party, furnish such party, at the requesting party's expense, copies certified by his or her original signature to be authentic replications of any papers in the arbitrator's possession that may be required in judicial proceedings relating to arbitration.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

ORDER OF RULEMAKING

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

10 CSR 10-2.210 Control of Emissions From Solvent Metal Cleaning **is amended**.

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1175–1180). No changes have been made in the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One (1) comment was received concerning this proposed amendment during the public comment period. This comment was in support of the rule action.

COMMENT: Honeywell spoke in support of the proposed rule amendment. Honeywell participated in the workgroup that developed the amendment to the St. Louis rule that is the equivalent of this rule.
RESPONSE: The Missouri Department of Natural Resources' Air Pollution Control Program appreciates Honeywell's involvement in the rule action. No wording changes have been made to the proposed rulemaking as a result of this comment.

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

ORDER OF RULEMAKING

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

10 CSR 10-6.260 Restriction of Emission of Sulfur Compounds **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1180–1182). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received no comments on the proposed amendment.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 110—Fees

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Family Support Division under section 454.400.2(5), RSMo 2000, the division adopts a rule as follows:

13 CSR 40–110.030 Annual Twenty-Five Dollar ($25) Fee **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2007 (32 MoReg 1912–1913). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.153, 208.201 and 208.152, RSMo SB 577 94th General Assembly, First Regular Session (2007), the division amends a rule as follows:

13 CSR 70-15.030 Limitations on Payment for Inpatient Hospital Care **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1396–1397). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department rescinds a rule as follows:

19 CSR 30-20.021 Organization and Management for Hospitals **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1191). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000, the department adopts a rule as follows:

19 CSR 30-20.080 Governing Body of Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1191–1196). No changes have been made in the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000, the department adopts a rule as follows:

19 CSR 30-20.082 Chief Executive Officer in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1197–1201). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000, the department adopts a rule as follows:

19 CSR 30-20.084 Patients' Rights in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1202). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.086 Medical Staff in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1202–1207). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.088 Central Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1208–1212). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.090 Dietary Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1213–1217). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.092 Emergency Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1218–1223). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.094 Medical Records in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1224–1229). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.096 Nursing Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1230–1235). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.098 Pathology and Medical Laboratory Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1236–1241). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.100 Pharmacy Services and Medication Management in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1242–1248). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.102 Radiology Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1249–1253). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000, the department adopts a rule as follows:

19 CSR 30-20.104 Social Work Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1254–1258). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.106 Inpatient Care Units in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1259). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000, the department adopts a rule as follows:

19 CSR 30-20.108 Fire Safety, General Safety and Operating Features for Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1259–1263). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000, the department adopts a rule as follows:

19 CSR 30-20.110 Orientation and Continuing Education in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1264–1269). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.112 Quality Improvement Programs in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1270–1274). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.114 Environmental and Support Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1275–1281). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.150 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.116 Infection Control in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1282–1287). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.118 Ambulatory Care Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1288–1290). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.120 Anesthesia Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1291–1293). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.122 Home-Care Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1294–1296). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.124 Medical Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1297–1299). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.126 Obstetrical and Newborn Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1300–1302). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.128 Pediatric Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1303–1305). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.130 Post-Anesthesia Recovery Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1306–1308). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.132 Psychiatric Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1309–1311). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.134 Rehabilitation Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1312–1314). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.136 Respiratory Care Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1315–1317). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.138 Special Patient Care Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1318–1320). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.140 Surgical Services in Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1321–1323). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-20.142 Variance Requests by Hospitals **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1324). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

ORDER OF RULEMAKING

By the authority vested in (and mandate directed to) the director of the Department of Insurance, Financial Institutions and Professional Registration by section 383.206.6, RSMo Supp. 2006, the director of said department makes the following order of rulemaking:

20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1397–1406). A public hearing was held before the Joint Committee on Administrative Rules on November 26, 2007 and the committee voted to reject the proposed rule. The department is withdrawing the rule at this time in order to pursue a legislative clarification of the relevant statutes.

SUMMARY OF COMMENTS: A public hearing on the following proposed rules was held on October 1 and written comments were received until October 5, 2007: 1) 20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings; 2) 20 CSR 500-5.025 Determination of Inadequate Rates; 3) 20 CSR 500-5.026 Determination of Excessive Rates; and 4) 20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates. At the public hearing and in written comments, department staff explained the proposed rules and made comments in support of the proposed rules. Michael Delaney of Missouri Hospital Plan also made comments in support of the proposed rules. At the public hearing and in written comments, Donald R. Carmody, representing Missouri Professionals Mutual, and Dr. Rob Schaaf, representing Missouri Doctors Mutual Insurance Company, made comments in opposition to the rule. Except as specifically indicated, the comments were made in reference to any or all of the proposed rules.

COMMENT #1: Mr. Carmody and Dr. Schaaf commented that the proposed rules exceed the statutory authority because the proposed rules purport to regulate both base rates and actual rates rather than base rates alone, whereas the statutory rulemaking authority is limited to administration and enforcement of section 383.206, RSMo. Dr. Schaaf also commented that the rule's effect would be to limit schedule rating debits and credits to a particular policyholder and to its first policyholder.

RESPONSE: The proposed rules are supported by statutory authority. HB 1837 clearly recognizes that there are different types of rates by making reference to the following:

•383.107 requires the director to establish and publish a market rate reflecting the median of **actual rates** charged.

•383.108 requires the director to publish comparisons of **base rates** charged by insurers.

•383.203.1 Every insurer shall file with the director **all rates** and supplementary rate information.…

•383.206.1 …no insurer shall issue or sell … [med mal insurance] … if the director finds, based upon competent and compelling evidence, that the **base rates** of such insurer are excessive, inadequate, or unfairly discriminatory. A **rate** may be used…unless the director has determined …that the rate is excessive, inadequate or unfairly discriminatory.

•383.206.2 In making a determination under subsection 1 of this section, the director … may use the following factors:

(1) **Rates** shall not be excessive or inadequate, nor shall they be unfairly discriminatory;

(2) No **rate** shall be held to be excessive unless such rate is unreasonably high for the insurance proved with respect to the classification to which such rate is applicable;

Section 383.206 uses the term "base rates" only once in describing the director's authority. Elsewhere, the statute consistently uses the term "rates." In construing a statute, each word and phrase is presumed to have meaning; if the general assembly had intended to use

the term "base rates" throughout the statute (and thereby restrict the regulatory scheme to base rates only), it would have done so. Accordingly, in order to give the two (2) terms meaning, the rule uses the term "base rates" to describe the starting points for determining the actual rate charged and the term "rates" to mean the actual rates charged. In addition, in the context of medical malpractice insurance rate making, a legislative scheme that applied only to base rates would be meaningless, because base rates have no practical consequence. Regulation of base rates alone would have no relevance to the revenues received by insurance companies or to the prices paid by health care providers for medical malpractice insurance. Such revenues and prices are determined by the actual rates, which deviate substantially and unpredictably from the base rates. Regarding the comment of Dr. Schaaf as to particular policyholders and to a first policyholder, neither the rule nor the statute contains any prohibition against making rate filings for the purpose of either adjusting its base rate or its maximum annual aggregate schedule rating adjustments in order to adjust the rate filing to the actual business the insurance company is transacting. No changes have been made to the rule as a result of this comment.

COMMENT #2: Mr. Carmody commented that 20 CSR 500-5.020(2)(A)2. "is so poorly drafted that it fails to put insurers on notice of their obligations" and it would be "an unspeakable burden" to require insurers to provide its maximum positive and maximum negative allowable values of its annual aggregate schedule rating adjustments.
RESPONSE: The department's actuary's use of the term "average" in describing annual aggregate schedule rating adjustments was meant only to describe information that many insurers currently provide in rate filings. If an insurance company can now provide an average annual aggregate schedule rating adjustment, it can certainly provide a maximum annual aggregate schedule rating adjustment with even less burden on the insurance company. Moreover, the rule does not require separate maximums to be stated for each of six thousand (6,000)-plus rating classifications. Instead, an insurer may satisfy the rule with maximums stated that would apply to all of its rating classifications or to such groupings of classifications as the insurer specifies. No changes have been made to the rule as a result of this comment.

COMMENT #3: Dr. Schaaf commented that the department has statutory authority to regulate schedule rating by requiring that insurance companies demonstrate the relationship between the schedule rating credits and debits and insured losses in order to meet the requirement of actuarial support found in section 383.206.4, RSMo.
RESPONSE: The department agrees that it has the statutory authority to address the level of support for schedule rating debits and credits; however, the director believes that regulating the full range of rates that insurers actually charge is more consistent with the statutory scheme and would be less disruptive of the medical malpractice insurance market. At present (and for the foreseeable future), no actuarial support in the form of demonstrable relationships between the schedule rating credits and debits and insured losses exists. As a consequence of this lack of demonstrable relationships, a rule that would require insurance companies to demonstrate such relationships in order to supply the statutory requirement of actuarial support would in effect abolish schedule rating. No changes have been made to the rule as a result of this comment.

COMMENT #4: Dr. Schaaf commented that the rule would be applied in a retroactive manner, contrary to statutory authority, because the rule would be applied to rate filings made before the effective date of the statute, August 28, 2006.
RESPONSE: The rule would not have retroactive application, because the rule would be applied to rates that insurance companies will charge to insured physicians after the effective date of the rule. That such rates may be based upon a rate filing made before the effective date of the statute does not render the rule retroactive in application to rates that will be charged after the effective date of the rule. No changes have been made to the rule as a result of this comment.

COMMENT #5: Mr. Carmody commented, "It is illogical to think that the legislature would protect insurers by giving the director a list of factors to consider and then allow him to define those factors in any way he sees fit."
RESPONSE: The purpose of this, or any other, insurance law is to protect the public. Section 383.206, RSMo does allow the director to define those factors, but does not allow him to define them in any way he sees fit. Section 383.206.2, RSMo allows the director to consider several factors, most, if not all, of which are not self-evident. Section 383.206.6, RSMo provides the means by which the director will generally consider the several factors because it requires the director to adopt rules "for the administration and enforcement of this section." Such administration and enforcement would be rendered a nullity if broadly stated factors could not be defined in a way that would apply generally to all medical malpractice insurance rate filings. Rules, including this one, are subject to a standard of reasonableness, not a standard of "any way he sees fit." This comment provides no evidence that the director's rule is unreasonable. No changes have been made to the rule as a result of this comment.

COMMENT #6: Mr. Carmody stated, "Many of the definitions set forth in 20 CSR 500-5.020 are either under-inclusive, over-inclusive, or unnecessary."
RESPONSE: Most of the definitions used in the rule are based on definitions provided by the National Association of Insurance Commissioners (NAIC), definitions used in other rules or definitions found in standard actuarial publications. Moreover, contrary to Mr. Carmody's comments in elaboration on the quoted comment, everyone does not know what supporting actuarial data is or what information is necessary to support an insurer's rates. To leave terms undefined would place each insurance company at risk of future changes in the administration of section 383.206, RSMo without advance notice to the insurance company. No changes have been made to the rule as a result of this comment.

COMMENT #7: Mr. Carmody commented that 20 CSR 500-5.020 "will require insurers to divulge their trade secrets."
RESPONSE: To the extent that this comment is meant to indicate that the director may not obtain trade secret information, this comment ignores settled law that the director is authorized by law to view any and all records relating to the business of insurance. To the extent that the comment is meant to indicate a fear that the director would allow the public access to an insurer's trade secrets, the comment ignores the provisions of subsection (5)(C) of the rule that allows the director to maintain the insurer's trade secrets as confidential under the provisions of 20 CSR 10-2.400(8). No changes have been made to the rule as a result of this comment.

COMMENT #8: Mr. Carmody comments, "20 CSR 500-5.020 does not realistically set forth the private cost associated with compliance."
RESPONSE: Some companies already have much of the information and support needed to comply with the proposed rule and would incur relatively little additional cost to comply. Other companies have less sophisticated and developed information and support. The cost of compliance will therefore vary a great deal from company to company. Mr. Carmody's comments are apparently reflective of Missouri Professional Mutual's situation while the cost of compliance analysis filed with the rule reflects industry averages. The hearing record, consisting of both oral and written comments, reflects no comments from any actuary who will be or may become responsible for compiling or reviewing the information required by the rule, which requirement underlies the private entity costs, other than the

department's own actuary. Given a choice between information provided by an actuary who has actually compiled the information required by the rule and actually reviewed such compilations made by other actuaries and information provided by persons who have neither the professional qualifications for nor the professional experience in insurance rate-making, the director will credit the testimony of the former. No changes have been made to the rule as a result of this comment.

COMMENT #9: In regard to 20 CSR 500-5.020(2)(A)2., Mr. Carmody comments that "it is impossible for an insurer to provide an accurate representation of 'the annual aggregate schedule rating adjustments…to all health care providers within a given classification'…" and that "the rule is unclear as to what is actually required of insurers."

RESPONSE: The comment is not accurate. A doctor's risk profile as measured by a company's schedule rating plan typically does not change a great deal from year-to-year. As a practical matter a changing risk profile of exposures written by a company is manageable. Schedule rating adjustments are, by definition, discretionary on the part of the company. Many companies monitor and manage their schedule rating adjustments. The department currently has on file rate plans that state what the insurance company expects will be its average schedule rating adjustment. If an insurance company is sufficiently confident in its ability to monitor schedule rating adjustments so that it can predict an average schedule rating adjustment, it will be even less burdensome to monitor its business so that its annual aggregate schedule rating adjustments do not exceed stated maximum values. As to the clarity of the rule, a maximum value of aggregate annual schedule rating adjustment would be the maximum percentage of schedule rating adjustments that would take place in the aggregate during the course of a year. It represents what the maximum percentage deviation from base rates that could occur if all schedule rating adjustments from the base rates for a given year were summed and divided by the premium from base rates. Since the department has not heard from any actuary (other than its own) and the department has examples of the expected values of annual aggregate schedule rating adjustments being stated in rate filings, the rule is sufficiently clear (at least to the professionals required to comply with and administer it) that the rule is required the statement of maximum values of annual aggregate schedule rating adjustments. No changes have been made to the rule as a result of this comment.

COMMENT #10: Regarding 20 CSR 500-5.020(2)(B), Mr. Carmody comments that the rule is flawed because 1) "a mere officer, as opposed to a certified actuary, may lack the knowledge necessary to vouch for the validity of data he or she probably does not have the expertise to interpret" and 2) "such a certification would require an insurer to obtain an actuarial report for each and every one of its policyholders."

RESPONSE: As the first alleged reason, the rule does not require the insurance company's officer to vouch for the validity of data. Instead, the insurance company's officer is required to certify only that "the insurer's records contain actuarial support for each criteria used in a schedule rating plan and supporting actuarial data for each of the company's rates and for the insurer's rating plan and rating system." If the officer is not an actuary, the certification would still be valid if the insurer's records contained its actuary's support for each criteria. Moreover, the rule is based on the language used in subsections four and five of section 383.206, RSMo. As to the second reason, even though the language complained of is used in section 383.206.5, RSMo the director agreed to clarify the rule by inserting the word "filed" between the words "insurer's" and "rates," however, the rule was struck down by the Joint Committee on Administrative Rules. As a result, no changes have been made to the rule as a result of this comment.

COMMENT #11: Mr. Carmody proposes that 20 CSR 500-5.020(3) "specifically set forth the circumstances which must exist to enable the director to ask for" supporting actuarial data, in order to avoid what Mr. Carmody alleges is unfettered discretion by the director to repeatedly ask for supporting actuarial data.

RESPONSE: The director's discretion to ask for supporting actuarial data cannot be limited in advance of knowledge of the particular circumstances surrounding any specific request. However, section (3) implies that generally speaking supporting actuarial data would not be requested more than once per year. In addition, the director's request or requests for supporting actuarial data would be subject to judicial review for abuse of discretion. No changes have been made to the rule as a result of this comment.

COMMENT #12: Mr. Carmody commented that 20 CSR 500-5.020(4) contradicts section 383.203.2, RSMo, because it "seeks to remove all consequences of the director's potential failure to abide by section 383.203.2."

RESPONSE: This comment misconstrues 20 CSR 500-5.020(4). The complained-of provision does not rob section 383.203.2, RSMo of any meaning. That statute controls only the information-filing requirements (the director is given thirty (30) days to request additional information); it does not purport to indicate that should the director not request additional information, the rate filing itself is beyond substantive challenge. The provision of the rule at issue only makes clear what is implied in the statute: namely that substantive challenges (i.e., that a rate is inadequate, excessive or unfairly discriminatory) to an insurance company's rate filing are not waived or estopped merely because the director does not ask for additional information. The thirty (30) day requirement in section 383.303.2, RSMo affects only the director's authority to ask for the information required by the statute (or the rule enforcing it); it does not affect any other authority or responsibility of the director. No changes have been made to the rule as a result of this comment.

COMMENT #13: Mr. Carmody commented that 20 CSR 500-5.020(5)(C) should be changed by deleting "may" and inserting in lieu thereof the word "shall."

RESPONSE: In the context of this rule, the word "may" is proper. Compliance with the cross-referenced rule, 20 CSR 10-2.400(8) does not always result in maintaining a record as confidential, but does result in maintaining a record as confidential pending compliance with certain requirements that prior notice be given to the person requesting confidentiality of any pending public inspection. Accordingly, the information will be treated as confidential, unless and until the prior notice requirements specified in 20 CSR 10-2.400(8) are complied with. No changes have been made to the rule as a result of this comment.

COMMENT #14: Dr. Schaaf commented that the rule's definition of supporting actuarial data is not authorized by statute because the statute does not: 1) "mandate any particular supporting actuarial data"; 2) "define the term 'supporting actuarial data'"; 3) "mandate supporting actuarial data for anything other than for the use of debits and credits"; or 4) "mandate that an insurer certify that actuarial support exists for a debit or credit."

RESPONSE: Regarding reasons 1) and 2), the statute does not itself mandate what is included in "supporting actuarial data" or define "supporting actuarial data"; therefore, a definition must be supplied from some authority. The most logical such authority is the director, because administration of section 383.206, RSMo is generally vested in the director, the phrase would be within the expertise of the agency due to its reference to actuarial science, the statute requires the director to adopt rules, and no common law understanding exists as to the meaning of the quoted phrase. As to reason 3), 383.206.5, RSMo mandates "supporting actuarial data" not only in support of debits and credits, but also in support of "a rate, rating plan, or rating system filing." Regarding reason 4), the rule's provision for an

insurance company's officer's certification is a procedural requirement that would demonstrate the insurance company in fact can meet the mandate of section 383.206.5, RSMo while the obligation to create supporting actuarial data is created by the statute itself; accordingly, such a certification provision is authorized by section 383.206.6, RSMo. No changes have been made to the rule as a result of this comment.

COMMENT #15: Dr. Schaaf commented that the department's contingent presumption that the maximum values of annual aggregate schedule rating adjustments will equal the sum of the maximum individual schedule rating adjustments is unreasonable.

RESPONSE: The department's contingency presumption is reasonable because it will apply only where the insurance company fails to voluntarily set its own maximum values of annual aggregate schedule rating adjustments. In the absence of the insurance company's voluntary setting of maximum annual aggregate schedule rating adjustments, the only presumption that could be justified is the sum of the individual schedule rating adjustments. The insurance company completely controls whether or not the contingent presumption applies; accordingly, the insurance company should state a set of values for its maximum annual aggregate schedule rating adjustments. The hypothetical absence of values for maximum annual aggregate schedule rating adjustments would render the statute meaningless because it would result in regulation of only the base rates, which everyone involved in the insurance industry recognizes as irrelevant to the actual prices paid by policyholders and the revenues received by insurance companies. No changes have been made to the rule as a result of this comment.

COMMENT #16: Dr. Schaaf commented that the statute did not intend the "outrageous possibility" that a rate could be both inadequate and excessive at the same time, for example as given by Dr. Schaaf, if an insurance company's rate filing included individual maximum schedule rating adjustments of plus or minus fifty percent (50%) of the base rate.

RESPONSE: Prior to HB 1837, a company could have excessive base rates but, through predatory competitive practices, charge an actual rate that is inadequate. In this example the rule would require that both the base rates and the actual rates meet statutory requirements. The example provided by Dr. Schaaf does not support the conclusion of an "outrageous possibility" for a number of reasons. First, the example ignores the opportunity of the company to set its own maximum annual aggregate schedule rating adjustments, hopefully within a lesser range than plus or minus fifty percent (50%). Second, assuming that an insurance company would allow for a maximum annual aggregate schedule rating adjustment of plus or minus fifty percent (50%), the only outrageous possibility is the possibility that any insurance company could believe that 1) a two hundred percent (200%) range of rates would not produce an inadequate or excessive rate, or both or 2) the statute would permit an insurance company to use one (1) rate filing to support overall rate levels that differ by a factor of three (1.5 times the base rate is 3 times .5 times the base rate). No changes have been made to the rule as a result of this comment.

COMMENT #17: Dr. Schaaf commented that the rules are beyond the statutory authority of the director when they define the term prospective administrative costs and deem such costs to be reasonable administrative costs under the statute.

RESPONSE: Section 383.206.2(8), RSMo, vests in the director the authority to consider "reasonable administrative costs of the insurer." Section 383.206.6, RSMo, both authorizes and requires the director to adopt rules "for the administration and enforcement of this section." "Reasonable administrative costs of the insurer" is defined neither at common law nor in the statute. Accordingly, the director has the statutory authority to adopt a reasonable rule necessary to enforce the definition and to administer this quoted factor. Deeming "prospective administrative expenses" as reasonable administrative expenses within a rate filing is appropriate, because 1) it is an unambiguous term within the actuarial context, 2) reviewing rates is always a matter of determining prospective losses and expenses in that the intent of a rate filing is to use the rates in the future to cover future expenses and future losses, and 3) calculating prospective administrative expenses involves using the insurance company's past administrative expenses as reasonable at the time they were incurred. No changes have been made to the rule as a result of this comment.

COMMENT #18: Mr. Carmody commented that the provisions of 20 CSR 500-5.026(3)(C)2., relating to a reasonable return on investment under section 383.206.2(10), RSMo, is contrary to the statute. In Mr. Carmody's opinion, the statute's requirement that the return on investment be "compared to other similar investments at the time of the rate request" requires that a ten (10)-year average not be employed in developing a safe harbor.

RESPONSE: The statutory requirement of reviewing similar investments "at the time of the rate request" has been complied by using the twenty (20)-year average because the twenty (20)-year average return on net worth is calculated using the twenty (20)-years next preceding the filing of the rates. The statute does not specify which period or how far back the comparison rate of return should be based and, therefore, it is within the discretion of the director in considering the factor of the rate of return to specify what will generally be considered a reasonable period. The twenty (20)-year average is reasonable because it will provide a stable rate of return; shorter periods would result in greater fluctuation, thereby defeating the public purpose of stability in medical malpractice insurance rates. No changes have been made to the rule as a result of this comment.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

ORDER OF RULEMAKING

By the authority vested in (and mandate directed to) the director of the Department of Insurance, Financial Institutions and Professional Registration by section 383.206.6, RSMo Supp. 2006, the director of said department makes the following order of rulemaking:

20 CSR 500-5.025 Determination of Inadequate Rates **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1407). A public hearing was held before the Joint Committee on Administrative Rules on November 26, 2007 and the committee voted to reject the proposed rule. The department is withdrawing the rule at this time in order to pursue a legislative clarification of the relevant statutes.

SUMMARY OF COMMENTS: A public hearing on the following proposed rules was held on October 1 and written comments were received until October 5, 2007: 1) 20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings; 2) 20 CSR 500-5.025 Determination of Inadequate Rates; 3) 20 CSR 500-5.026 Determination of Excessive Rates; and 4) 20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates. At the public hearing and in written comments, department staff explained the proposed rules and made comments in support of the proposed rules. Michael Delaney of Missouri Hospital Plan also made comments in

support of the proposed rules. At the public hearing and in written comments, Donald R. Carmody, representing Missouri Professionals Mutual, and Dr. Rob Schaaf, representing Missouri Doctors Mutual Insurance Company, made comments in opposition to the rule. Except as specifically indicated, the comments were made in reference to any or all of the proposed rules.

COMMENT #1: Mr. Carmody and Dr. Schaaf commented that the proposed rules exceed the statutory authority because the proposed rules purport to regulate both base rates and actual rates rather than base rates alone, whereas the statutory rulemaking authority is limited to administration and enforcement of section 383.206, RSMo. Dr. Schaaf also commented that the rule's effect would be to limit schedule rating debits and credits to a particular policyholder and to its first policyholder.

RESPONSE: The proposed rules are supported by statutory authority. HB 1837 clearly recognizes that there are different types of rates by making reference to the following:

•383.107 requires the director to establish and publish a market rate reflecting the median of **actual rates** charged.

•383.108 requires the director to publish comparisons of **base rates** charged by insurers.

•383.203.1 Every insurer shall file with the director **all rates** and supplementary rate information.…

•383.206.1 …no insurer shall issue or sell … [med mal insurance] … if the director finds, based upon competent and compelling evidence, that the **base rates** of such insurer are excessive, inadequate, or unfairly discriminatory. A **rate** may be used…unless the director has determined …that the rate is excessive, inadequate or unfairly discriminatory.

•383.206.2 In making a determination under subsection 1 of this section, the director … may use the following factors:

(1) **Rates** shall not be excessive or inadequate, nor shall they be unfairly discriminatory;

(2) No **rate** shall be held to be excessive unless such rate is unreasonably high for the insurance proved with respect to the classification to which such rate is applicable;

Section 383.206 uses the term "base rates" only once in describing the director's authority. Elsewhere, the statute consistently uses the term "rates." In construing a statute, each word and phrase is presumed to have meaning; if the general assembly had intended to use the term "base rates" throughout the statute (and thereby restrict the regulatory scheme to base rates only), it would have done so. Accordingly, in order to give the two (2) terms meaning, the rule uses the term "base rates" to describe the starting points for determining the actual rate charged and the term "rates" to mean the actual rates charged. In addition, in the context of medical malpractice insurance rate making, a legislative scheme that applied only to base rates would be meaningless, because base rates have no practical consequence. Regulation of base rates alone would have no relevance to the revenues received by insurance companies or to the prices paid by health care providers for medical malpractice insurance. Such revenues and prices are determined by the actual rates, which deviate substantially and unpredictably from the base rates. Regarding the comment of Dr. Schaaf as to particular policyholders and to a first policyholder, neither the rule nor the statute contains any prohibition against making rate filings for the purpose of either adjusting its base rate or its maximum annual aggregate schedule rating adjustments in order to adjust the rate filing to the actual business the insurance company is transacting. No changes have been made to the rule as a result of this comment.

COMMENT #2: Mr. Carmody commented that 20 CSR 500-5.020(2)(A)2. "is so poorly drafted that it fails to put insurers on notice of their obligations" and it would be "an unspeakable burden" to require insurers to provide its maximum positive and maximum negative allowable values of its annual aggregate schedule rating adjustments.

RESPONSE: The department's actuary's use of the term "average" in describing annual aggregate schedule rating adjustments was meant only to describe information that many insurers currently provide in rate filings. If an insurance company can now provide an average annual aggregate schedule rating adjustment, it can certainly provide a maximum annual aggregate schedule rating adjustment with even less burden on the insurance company. Moreover, the rule does not require separate maximums to be stated for each of six thousand (6,000)-plus rating classifications. Instead, an insurer may satisfy the rule with maximums stated that would apply to all of its rating classifications or to such groupings of classifications as the insurer specifies. No changes have been made to the rule as a result of this comment.

COMMENT #3: Dr. Schaaf commented that the department has statutory authority to regulate schedule rating by requiring that insurance companies demonstrate the relationship between the schedule rating credits and debits and insured losses in order to meet the requirement of actuarial support found in section 383.206.4, RSMo.

RESPONSE: The department agrees that it has the statutory authority to address the level of support for schedule rating debits and credits; however, the director believes that regulating the full range of rates that insurers actually charge is more consistent with the statutory scheme and would be less disruptive of the medical malpractice insurance market. At present (and for the foreseeable future), no actuarial support in the form of demonstrable relationships between the schedule rating credits and debits and insured losses exists. As a consequence of this lack of demonstrable relationships, a rule that would require insurance companies to demonstrate such relationships in order to supply the statutory requirement of actuarial support would in effect abolish schedule rating. No changes have been made to the rule as a result of this comment.

COMMENT #4: Dr. Schaaf commented that the rule would be applied in a retroactive manner, contrary to statutory authority, because the rule would be applied to rate filings made before the effective date of the statute, August 28, 2006.

RESPONSE: The rule would not have retroactive application, because the rule would be applied to rates that insurance companies will charge to insured physicians after the effective date of the rule. That such rates may be based upon a rate filing made before the effective date of the statute does not render the rule retroactive in application to rates that will be charged after the effective date of the rule. No changes have been made to the rule as a result of this comment.

COMMENT #5: Mr. Carmody commented, "It is illogical to think that the legislature would protect insurers by giving the director a list of factors to consider and then allow him to define those factors in any way he sees fit."

RESPONSE: The purpose of this, or any other, insurance law is to protect the public. Section 383.206, RSMo does allow the director to define those factors, but does not allow him to define them in any way he sees fit. Section 383.206.2, RSMo allows the director to consider several factors, most, if not all, of which are not self-evident. Section 383.206.6, RSMo provides the means by which the director will generally consider the several factors because it requires the director to adopt rules "for the administration and enforcement of this section." Such administration and enforcement would be rendered a nullity if broadly stated factors could not be defined in a way that would apply generally to all medical malpractice insurance rate filings. Rules, including this one, are subject to a standard of reasonableness, not a standard of "any way he sees fit." This comment provides no evidence that the director's rule is unreasonable. No changes have been made to the rule as a result of this comment.

COMMENT #6: Mr. Carmody stated, "Many of the definitions set forth in 20 CSR 500-5.020 are either under-inclusive, over-inclusive, or unnecessary."
RESPONSE: Most of the definitions used in the rule are based on definitions provided by the National Association of Insurance Commissioners (NAIC), definitions used in other rules or definitions found in standard actuarial publications. Moreover, contrary to Mr. Carmody's comments in elaboration on the quoted comment, everyone does not know what supporting actuarial data is or what information is necessary to support an insurer's rates. To leave terms undefined would place each insurance company at risk of future changes in the administration of section 383.206, RSMo without advance notice to the insurance company. No changes have been made to the rule as a result of this comment.

COMMENT #7: Mr. Carmody commented that 20 CSR 500-5.020 "will require insurers to divulge their trade secrets."
RESPONSE: To the extent that this comment is meant to indicate that the director may not obtain trade secret information, this comment ignores settled law that the director is authorized by law to view any and all records relating to the business of insurance. To the extent that the comment is meant to indicate a fear that the director would allow the public access to an insurer's trade secrets, the comment ignores the provisions of subsection (5)(C) of the rule that allows the director to maintain the insurer's trade secrets as confidential under the provisions of 20 CSR 10-2.400(8). No changes have been made to the rule as a result of this comment.

COMMENT #8: Mr. Carmody comments, "20 CSR 500-5.020 does not realistically set forth the private cost associated with compliance."
RESPONSE: Some companies already have much of the information and support needed to comply with the proposed rule and would incur relatively little additional cost to comply. Other companies have less sophisticated and developed information and support. The cost of compliance will therefore vary a great deal from company to company. Mr. Carmody's comments are apparently reflective of Missouri Professional Mutual's situation while the cost of compliance analysis filed with the rule reflects industry averages. The hearing record, consisting of both oral and written comments, reflects no comments from any actuary who will be or may become responsible for compiling or reviewing the information required by the rule, which requirement underlies the private entity costs, other than the department's own actuary. Given a choice between information provided by an actuary who has actually compiled the information required by the rule and actually reviewed such compilations made by other actuaries and information provided by persons who have neither the professional qualifications for nor the professional experience in insurance rate-making, the director will credit the testimony of the former. No changes have been made to the rule as a result of this comment.

COMMENT #9: In regard to 20 CSR 500-5.020(2)(A)2., Mr. Carmody comments that "it is impossible for an insurer to provide an accurate representation of 'the annual aggregate schedule rating adjustments…to all health care providers within a given classification'…" and that "the rule is unclear as to what is actually required of insurers."
RESPONSE: The comment is not accurate. A doctor's risk profile as measured by a company's schedule rating plan typically does not change a great deal from year-to-year. As a practical matter a changing risk profile of exposures written by a company is manageable. Schedule rating adjustments are, by definition, discretionary on the part of the company. Many companies monitor and manage their schedule rating adjustments. The department currently has on file rate plans that state what the insurance company expects will be its average schedule rating adjustment. If an insurance company is sufficiently confident in its ability to monitor schedule rating adjustments so that it can predict an average schedule rating adjustment, it will be even less burdensome to monitor its business so that its annual aggregate schedule rating adjustments do not exceed stated maximum values. As to the clarity of the rule, a maximum value of aggregate annual schedule rating adjustment would be the maximum percentage of schedule rating adjustments that would take place in the aggregate during the course of a year. It represents what the maximum percentage deviation from base rates that could occur if all schedule rating adjustments from the base rates for a given year were summed and divided by the premium from base rates. Since the department has not heard from any actuary (other than its own) and the department has examples of the expected values of annual aggregate schedule rating adjustments being stated in rate filings, the rule is sufficiently clear (at least to the professionals required to comply with and administer it) that the rule is required the statement of maximum values of annual aggregate schedule rating adjustments. No changes have been made to the rule as a result of this comment.

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RESPONSE: As the first alleged reason, the rule does not require the insurance company's officer to vouch for the validity of data. Instead, the insurance company's officer is required to certify only that "the insurer's records contain actuarial support for each criteria used in a schedule rating plan and supporting actuarial data for each of the company's rates and for the insurer's rating plan and rating system." If the officer is not an actuary, the certification would still be valid if the insurer's records contained its actuary's support for each criteria. Moreover, the rule is based on the language used in subsections four and five of section 383.206, RSMo. As to the second reason, even though the language complained of is used in section 383.206.5, RSMo the director agreed to clarify the rule by inserting the word "filed" between the words "insurer's" and "rates," however, the rule was struck down by the Joint Committee on Administrative Rules. As a result, no changes have been made to the rule as a result of this comment.

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RESPONSE: The director's discretion to ask for supporting actuarial data cannot be limited in advance of knowledge of the particular circumstances surrounding any specific request. However, section (3) implies that generally speaking supporting actuarial data would not be requested more than once per year. In addition, the director's request or requests for supporting actuarial data would be subject to judicial review for abuse of discretion. No changes have been made to the rule as a result of this comment.

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RESPONSE: In the context of this rule, the word "may" is proper. Compliance with the cross-referenced rule, 20 CSR 10-2.400(8) does not always result in maintaining a record as confidential, but does result in maintaining a record as confidential pending compliance with certain requirements that prior notice be given to the person requesting confidentiality of any pending public inspection. Accordingly, the information will be treated as confidential, unless and until the prior notice requirements specified in 20 CSR 10-2.400(8) are complied with. No changes have been made to the rule as a result of this comment.

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RESPONSE: Regarding reasons 1) and 2), the statute does not itself mandate what is included in "supporting actuarial data" or define "supporting actuarial data"; therefore, a definition must be supplied from some authority. The most logical such authority is the director, because administration of section 383.206, RSMo is generally vested in the director, the phrase would be within the expertise of the agency due to its reference to actuarial science, the statute requires the director to adopt rules, and no common law understanding exists as to the meaning of the quoted phrase. As to reason 3), 383.206.5, RSMo mandates "supporting actuarial data" not only in support of debits and credits, but also in support of "a rate, rating plan, or rating system filing." Regarding reason 4), the rule's provision for an insurance company's officer's certification is a procedural requirement that would demonstrate the insurance company in fact can meet the mandate of section 383.206.5, RSMo while the obligation to create supporting actuarial data is created by the statute itself; accordingly, such a certification provision is authorized by section 383.206.6, RSMo. No changes have been made to the rule as a result of this comment.

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RESPONSE: The department's contingency presumption is reasonable because it will apply only where the insurance company fails to voluntarily set its own maximum values of annual aggregate schedule rating adjustments. In the absence of the insurance company's voluntary setting of maximum annual aggregate schedule rating adjustments, the only presumption that could be justified is the sum of the individual schedule rating adjustments. The insurance company completely controls whether or not the contingent presumption applies; accordingly, the insurance company should state a set of values for its maximum annual aggregate schedule rating adjustments. The hypothetical absence of values for maximum annual aggregate schedule rating adjustments would render the statute meaningless because it would result in regulation of only the base rates, which everyone involved in the insurance industry recognizes as irrelevant to the actual prices paid by policyholders and the revenues received by insurance companies. No changes have been made to the rule as a result of this comment.

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RESPONSE: Prior to HB 1837, a company could have excessive base rates but, through predatory competitive practices, charge an actual rate that is inadequate. In this example the rule would require that both the base rates and the actual rates meet statutory requirements. The example provided by Dr. Schaaf does not support the conclusion of an "outrageous possibility" for a number of reasons. First, the example ignores the opportunity of the company to set its own maximum annual aggregate schedule rating adjustments, hopefully within a lesser range than plus or minus fifty percent (50%). Second, assuming that an insurance company would allow for a maximum annual aggregate schedule rating adjustment of plus or minus fifty percent (50%), the only outrageous possibility is the possibility that any insurance company could believe that 1) a two hundred percent (200%) range of rates would not produce an inadequate or excessive rate, or both or 2) the statute would permit an insurance company to use one (1) rate filing to support overall rate levels that differ by a factor of three (1.5 times the base rate is 3 times .5 times the base rate). No changes have been made to the rule as a result of this comment.

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RESPONSE: Section 383.206.2(8), RSMo, vests in the director the authority to consider "reasonable administrative costs of the insurer." Section 383.206.6, RSMo, both authorizes and requires the director to adopt rules "for the administration and enforcement of this section." "Reasonable administrative costs of the insurer" is defined neither at common law nor in the statute. Accordingly, the director has the statutory authority to adopt a reasonable rule necessary to enforce the definition and to administer this quoted factor. Deeming "prospective administrative expenses" as reasonable administrative expenses within a rate filing is appropriate, because 1) it is an unambiguous term within the actuarial context, 2) reviewing rates is always a matter of determining prospective losses and expenses in that the intent of a rate filing is to use the rates in the future to cover future expenses and future losses, and 3) calculating prospective administrative expenses involves using the insurance company's past administrative expenses as reasonable at the time they were incurred. No changes have been made to the rule as a result of this comment.

COMMENT #18: Mr. Carmody commented that the provisions of 20 CSR 500-5.026(3)(C)2., relating to a reasonable return on investment under section 383.206.2(10), RSMo, is contrary to the statute. In Mr. Carmody's opinion, the statute's requirement that the return on investment be "compared to other similar investments at the time of the rate request" requires that a ten (10)-year average not be employed in developing a safe harbor.

RESPONSE: The statutory requirement of reviewing similar investments "at the time of the rate request" has been complied by using the twenty (20)-year average because the twenty (20)-year average return on net worth is calculated using the twenty (20)-years next preceding the filing of the rates. The statute does not specify which period or how far back the comparison rate of return should be based and, therefore, it is within the discretion of the director in considering the factor of the rate of return to specify what will generally be considered a reasonable period. The twenty (20)-year average is

reasonable because it will provide a stable rate of return; shorter periods would result in greater fluctuation, thereby defeating the public purpose of stability in medical malpractice insurance rates. No changes have been made to the rule as a result of this comment.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

ORDER OF RULEMAKING

By the authority vested in (and mandate directed to) the director of the Department of Insurance, Financial Institutions and Professional Registration by section 383.206.6, RSMo Supp. 2006, the director of said department makes the following order of rulemaking:

20 CSR 500-5.026 Determination of Excessive Rates **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1407–1408). A public hearing was held before the Joint Committee on Administrative Rules on November 26, 2007 and the committee voted to reject the proposed rule. The department is withdrawing the rule at this time in order to pursue a legislative clarification of the relevant statutes.

SUMMARY OF COMMENTS: A public hearing on the following proposed rules was held on October 1 and written comments were received until October 5, 2007: 1) 20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings; 2) 20 CSR 500-5.025 Determination of Inadequate Rates; 3) 20 CSR 500-5.026 Determination of Excessive Rates; and 4) 20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates. At the public hearing and in written comments, department staff explained the proposed rules and made comments in support of the proposed rules. Michael Delaney of Missouri Hospital Plan also made comments in support of the proposed rules. At the public hearing and in written comments, Donald R. Carmody, representing Missouri Professionals Mutual, and Dr. Rob Schaaf, representing Missouri Doctors Mutual Insurance Company, made comments in opposition to the rule. Except as specifically indicated, the comments were made in reference to any or all of the proposed rules.

COMMENT #1: Mr. Carmody and Dr. Schaaf commented that the proposed rules exceed the statutory authority because the proposed rules purport to regulate both base rates and actual rates rather than base rates alone, whereas the statutory rulemaking authority is limited to administration and enforcement of section 383.206, RSMo. Dr. Schaaf also commented that the rule's effect would be to limit schedule rating debits and credits to a particular policyholder and to its first policyholder.
RESPONSE: The proposed rules are supported by statutory authority. HB 1837 clearly recognizes that there are different types of rates by making reference to the following:

•383.107 requires the director to establish and publish a market rate reflecting the median of **actual rates** charged.

•383.108 requires the director to publish comparisons of **base rates** charged by insurers.

•383.203.1 Every insurer shall file with the director **all rates** and supplementary rate information.…

•383.206.1 …no insurer shall issue or sell … [med mal insurance] … if the director finds, based upon competent and compelling evidence, that the **base rates** of such insurer are excessive, inadequate, or unfairly discriminatory. A **rate** may be used…unless the director has determined …that the rate is excessive, inadequate or unfairly discriminatory.

•383.206.2 In making a determination under subsection 1 of this section, the director … may use the following factors:

(1) **Rates** shall not be excessive or inadequate, nor shall they be unfairly discriminatory;

(2) No **rate** shall be held to be excessive unless such rate is unreasonably high for the insurance proved with respect to the classification to which such rate is applicable;

Section 383.206 uses the term "base rates" only once in describing the director's authority. Elsewhere, the statute consistently uses the term "rates." In construing a statute, each word and phrase is presumed to have meaning; if the general assembly had intended to use the term "base rates" throughout the statute (and thereby restrict the regulatory scheme to base rates only), it would have done so. Accordingly, in order to give the two (2) terms meaning, the rule uses the term "base rates" to describe the starting points for determining the actual rate charged and the term "rates" to mean the actual rates charged. In addition, in the context of medical malpractice insurance rate making, a legislative scheme that applied only to base rates would be meaningless, because base rates have no practical consequence. Regulation of base rates alone would have no relevance to the revenues received by insurance companies or to the prices paid by health care providers for medical malpractice insurance. Such revenues and prices are determined by the actual rates, which deviate substantially and unpredictably from the base rates. Regarding the comment of Dr. Schaaf as to particular policyholders and to a first policyholder, neither the rule nor the statute contains any prohibition against making rate filings for the purpose of either adjusting its base rate or its maximum annual aggregate schedule rating adjustments in order to adjust the rate filing to the actual business the insurance company is transacting. No changes have been made to the rule as a result of this comment.

COMMENT #2: Mr. Carmody commented that 20 CSR 500-5.020(2)(A)2. "is so poorly drafted that it fails to put insurers on notice of their obligations" and it would be "an unspeakable burden" to require insurers to provide its maximum positive and maximum negative allowable values of its annual aggregate schedule rating adjustments.
RESPONSE: The department's actuary's use of the term "average" in describing annual aggregate schedule rating adjustments was meant only to describe information that many insurers currently provide in rate filings. If an insurance company can now provide an average annual aggregate schedule rating adjustment, it can certainly provide a maximum annual aggregate schedule rating adjustment with even less burden on the insurance company. Moreover, the rule does not require separate maximums to be stated for each of six thousand (6,000)-plus rating classifications. Instead, an insurer may satisfy the rule with maximums stated that would apply to all of its rating classifications or to such groupings of classifications as the insurer specifies. No changes have been made to the rule as a result of this comment.

COMMENT #3: Dr. Schaaf commented that the department has statutory authority to regulate schedule rating by requiring that insurance companies demonstrate the relationship between the schedule rating credits and debits and insured losses in order to meet the requirement of actuarial support found in section 383.206.4, RSMo.
RESPONSE: The department agrees that it has the statutory authority to address the level of support for schedule rating debits and credits; however, the director believes that regulating the full range of rates that insurers actually charge is more consistent with the statutory scheme and would be less disruptive of the medical malpractice insurance market. At present (and for the foreseeable future), no actuarial support in the form of demonstrable relationships between

the schedule rating credits and debits and insured losses exists. As a consequence of this lack of demonstrable relationships, a rule that would require insurance companies to demonstrate such relationships in order to supply the statutory requirement of actuarial support would in effect abolish schedule rating. No changes have been made to the rule as a result of this comment.

COMMENT #4: Dr. Schaaf commented that the rule would be applied in a retroactive manner, contrary to statutory authority, because the rule would be applied to rate filings made before the effective date of the statute, August 28, 2006.

RESPONSE: The rule would not have retroactive application, because the rule would be applied to rates that insurance companies will charge to insured physicians after the effective date of the rule. That such rates may be based upon a rate filing made before the effective date of the statute does not render the rule retroactive in application to rates that will be charged after the effective date of the rule. No changes have been made to the rule as a result of this comment.

COMMENT #5: Mr. Carmody commented, "It is illogical to think that the legislature would protect insurers by giving the director a list of factors to consider and then allow him to define those factors in any way he sees fit."

RESPONSE: The purpose of this, or any other, insurance law is to protect the public. Section 383.206, RSMo does allow the director to define those factors, but does not allow him to define them in any way he sees fit. Section 383.206.2, RSMo allows the director to consider several factors, most, if not all, of which are not self-evident. Section 383.206.6, RSMo provides the means by which the director will generally consider the several factors because it requires the director to adopt rules "for the administration and enforcement of this section." Such administration and enforcement would be rendered a nullity if broadly stated factors could not be defined in a way that would apply generally to all medical malpractice insurance rate filings. Rules, including this one, are subject to a standard of reasonableness, not a standard of "any way he sees fit." This comment provides no evidence that the director's rule is unreasonable. No changes have been made to the rule as a result of this comment.

COMMENT #6: Mr. Carmody stated, "Many of the definitions set forth in 20 CSR 500-5.020 are either under-inclusive, over-inclusive, or unnecessary."

RESPONSE: Most of the definitions used in the rule are based on definitions provided by the National Association of Insurance Commissioners (NAIC), definitions used in other rules or definitions found in standard actuarial publications. Moreover, contrary to Mr. Carmody's comments in elaboration on the quoted comment, everyone does not know what supporting actuarial data is or what information is necessary to support an insurer's rates. To leave terms undefined would place each insurance company at risk of future changes in the administration of section 383.206, RSMo without advance notice to the insurance company. No changes have been made to the rule as a result of this comment.

COMMENT #7: Mr. Carmody commented that 20 CSR 500-5.020 "will require insurers to divulge their trade secrets."

RESPONSE: To the extent that this comment is meant to indicate that the director may not obtain trade secret information, this comment ignores settled law that the director is authorized by law to view any and all records relating to the business of insurance. To the extent that the comment is meant to indicate a fear that the director would allow the public access to an insurer's trade secrets, the comment ignores the provisions of subsection (5)(C) of the rule that allows the director to maintain the insurer's trade secrets as confidential under the provisions of 20 CSR 10-2.400(8). No changes have been made to the rule as a result of this comment.

COMMENT #8: Mr. Carmody comments, "20 CSR 500-5.020 does not realistically set forth the private cost associated with compliance."

RESPONSE: Some companies already have much of the information and support needed to comply with the proposed rule and would incur relatively little additional cost to comply. Other companies have less sophisticated and developed information and support. The cost of compliance will therefore vary a great deal from company to company. Mr. Carmody's comments are apparently reflective of Missouri Professional Mutual's situation while the cost of compliance analysis filed with the rule reflects industry averages. The hearing record, consisting of both oral and written comments, reflects no comments from any actuary who will be or may become responsible for compiling or reviewing the information required by the rule, which requirement underlies the private entity costs, other than the department's own actuary. Given a choice between information provided by an actuary who has actually compiled the information required by the rule and actually reviewed such compilations made by other actuaries and information provided by persons who have neither the professional qualifications for nor the professional experience in insurance rate-making, the director will credit the testimony of the former. No changes have been made to the rule as a result of this comment.

COMMENT #9: In regard to 20 CSR 500-5.020(2)(A)2., Mr. Carmody comments that "it is impossible for an insurer to provide an accurate representation of 'the annual aggregate schedule rating adjustments…to all health care providers within a given classification'…" and that "the rule is unclear as to what is actually required of insurers."

RESPONSE: The comment is not accurate. A doctor's risk profile as measured by a company's schedule rating plan typically does not change a great deal from year-to-year. As a practical matter a changing risk profile of exposures written by a company is manageable. Schedule rating adjustments are, by definition, discretionary on the part of the company. Many companies monitor and manage their schedule rating adjustments. The department currently has on file rate plans that state what the insurance company expects will be its average schedule rating adjustment. If an insurance company is sufficiently confident in its ability to monitor schedule rating adjustments so that it can predict an average schedule rating adjustment, it will be even less burdensome to monitor its business so that its annual aggregate schedule rating adjustments do not exceed stated maximum values. As to the clarity of the rule, a maximum value of aggregate annual schedule rating adjustment would be the maximum percentage of schedule rating adjustments that would take place in the aggregate during the course of a year. It represents what the maximum percentage deviation from base rates that could occur if all schedule rating adjustments from the base rates for a given year were summed and divided by the premium from base rates. Since the department has not heard from any actuary (other than its own) and the department has examples of the expected values of annual aggregate schedule rating adjustments being stated in rate filings, the rule is sufficiently clear (at least to the professionals required to comply with and administer it) that the rule is required the statement of maximum values of annual aggregate schedule rating adjustments. No changes have been made to the rule as a result of this comment.

COMMENT #10: Regarding 20 CSR 500-5.020(2)(B), Mr. Carmody comments that the rule is flawed because 1) "a mere officer, as opposed to a certified actuary, may lack the knowledge necessary to vouch for the validity of data he or she probably does not have the expertise to interpret" and 2) "such a certification would require an insurer to obtain an actuarial report for each and every one of its policyholders."

RESPONSE: As the first alleged reason, the rule does not require the insurance company's officer to vouch for the validity of data. Instead, the insurance company's officer is required to certify only

that "the insurer's records contain actuarial support for each criteria used in a schedule rating plan and supporting actuarial data for each of the company's rates and for the insurer's rating plan and rating system." If the officer is not an actuary, the certification would still be valid if the insurer's records contained its actuary's support for each criteria. Moreover, the rule is based on the language used in subsections four and five of section 383.206, RSMo. As to the second reason, even though the language complained of is used in section 383.206.5, RSMo the director agreed to clarify the rule by inserting the word "filed" between the words "insurer's" and "rates," however, the rule was struck down by the Joint Committee on Administrative Rules. As a result, no changes have been made to the rule as a result of this comment.

COMMENT #11: Mr. Carmody proposes that 20 CSR 500-5.020(3) "specifically set forth the circumstances which must exist to enable the director to ask for" supporting actuarial data, in order to avoid what Mr. Carmody alleges is unfettered discretion by the director to repeatedly ask for supporting actuarial data.
RESPONSE: The director's discretion to ask for supporting actuarial data cannot be limited in advance of knowledge of the particular circumstances surrounding any specific request. However, section (3) implies that generally speaking supporting actuarial data would not be requested more than once per year. In addition, the director's request or requests for supporting actuarial data would be subject to judicial review for abuse of discretion. No changes have been made to the rule as a result of this comment.

COMMENT #12: Mr. Carmody commented that 20 CSR 500-5.020(4) contradicts section 383.203.2, RSMo, because it "seeks to remove all consequences of the director's potential failure to abide by section 383.203.2."
RESPONSE: This comment misconstrues 20 CSR 500-5.020(4). The complained-of provision does not rob section 383.203.2, RSMo of any meaning. That statute controls only the information-filing requirements (the director is given thirty (30) days to request additional information); it does not purport to indicate that should the director not request additional information, the rate filing itself is beyond substantive challenge. The provision of the rule at issue only makes clear what is implied in the statute: namely that substantive challenges (i.e., that a rate is inadequate, excessive or unfairly discriminatory) to an insurance company's rate filing are not waived or estopped merely because the director does not ask for additional information. The thirty (30) day requirement in section 383.303.2, RSMo affects only the director's authority to ask for the information required by the statute (or the rule enforcing it); it does not affect any other authority or responsibility of the director. No changes have been made to the rule as a result of this comment.

COMMENT #13: Mr. Carmody commented that 20 CSR 500-5.020(5)(C) should be changed by deleting "may" and inserting in lieu thereof the word "shall."
RESPONSE: In the context of this rule, the word "may" is proper. Compliance with the cross-referenced rule, 20 CSR 10-2.400(8) does not always result in maintaining a record as confidential, but does result in maintaining a record as confidential pending compliance with certain requirements that prior notice be given to the person requesting confidentiality of any pending public inspection. Accordingly, the information will be treated as confidential, unless and until the prior notice requirements specified in 20 CSR 10-2.400(8) are complied with. No changes have been made to the rule as a result of this comment.

COMMENT #14: Dr. Schaaf commented that the rule's definition of supporting actuarial data is not authorized by statute because the statute does not: 1) "mandate any particular supporting actuarial data"; 2) "define the term 'supporting actuarial data'"; 3) "mandate supporting actuarial data for anything other than for the use of debits and credits"; or 4) "mandate that an insurer certify that actuarial support exists for a debit or credit."
RESPONSE: Regarding reasons 1) and 2), the statute does not itself mandate what is included in "supporting actuarial data" or define "supporting actuarial data"; therefore, a definition must be supplied from some authority. The most logical such authority is the director, because administration of section 383.206, RSMo is generally vested in the director, the phrase would be within the expertise of the agency due to its reference to actuarial science, the statute requires the director to adopt rules, and no common law understanding exists as to the meaning of the quoted phrase. As to reason 3), 383.206.5, RSMo mandates "supporting actuarial data" not only in support of debits and credits, but also in support of "a rate, rating plan, or rating system filing." Regarding reason 4), the rule's provision for an insurance company's officer's certification is a procedural requirement that would demonstrate the insurance company in fact can meet the mandate of section 383.206.5, RSMo while the obligation to create supporting actuarial data is created by the statute itself; accordingly, such a certification provision is authorized by section 383.206.6, RSMo. No changes have been made to the rule as a result of this comment.

COMMENT #15: Dr. Schaaf commented that the department's contingent presumption that the maximum values of annual aggregate schedule rating adjustments will equal the sum of the maximum individual schedule rating adjustments is unreasonable.
RESPONSE: The department's contingency presumption is reasonable because it will apply only where the insurance company fails to voluntarily set its own maximum values of annual aggregate schedule rating adjustments. In the absence of the insurance company's voluntary setting of maximum annual aggregate schedule rating adjustments, the only presumption that could be justified is the sum of the individual schedule rating adjustments. The insurance company completely controls whether or not the contingent presumption applies; accordingly, the insurance company should state a set of values for its maximum annual aggregate schedule rating adjustments. The hypothetical absence of values for maximum annual aggregate schedule rating adjustments would render the statute meaningless because it would result in regulation of only the base rates, which everyone involved in the insurance industry recognizes as irrelevant to the actual prices paid by policyholders and the revenues received by insurance companies. No changes have been made to the rule as a result of this comment.

COMMENT #16: Dr. Schaaf commented that the statute did not intend the "outrageous possibility" that a rate could be both inadequate and excessive at the same time, for example as given by Dr. Schaaf, if an insurance company's rate filing included individual maximum schedule rating adjustments of plus or minus fifty percent (50%) of the base rate.
RESPONSE: Prior to HB 1837, a company could have excessive base rates but, through predatory competitive practices, charge an actual rate that is inadequate. In this example the rule would require that both the base rates and the actual rates meet statutory requirements. The example provided by Dr. Schaaf does not support the conclusion of an "outrageous possibility" for a number of reasons. First, the example ignores the opportunity of the company to set its own maximum annual aggregate schedule rating adjustments, hopefully within a lesser range than plus or minus fifty percent (50%). Second, assuming that an insurance company would allow for a maximum annual aggregate schedule rating adjustment of plus or minus fifty percent (50%), the only outrageous possibility is the possibility that any insurance company could believe that 1) a two hundred percent (200%) range of rates would not produce an inadequate or excessive rate, or both or 2) the statute would permit an insurance company to use one (1) rate filing to support overall rate levels that differ by a factor of three (1.5 times the base rate is 3 times .5 times the base rate). No changes have been made to the rule as a result of

this comment.

COMMENT #17: Dr. Schaaf commented that the rules are beyond the statutory authority of the director when they define the term prospective administrative costs and deem such costs to be reasonable administrative costs under the statute.
RESPONSE: Section 383.206.2(8), RSMo, vests in the director the authority to consider "reasonable administrative costs of the insurer." Section 383.206.6, RSMo, both authorizes and requires the director to adopt rules "for the administration and enforcement of this section." "Reasonable administrative costs of the insurer" is defined neither at common law nor in the statute. Accordingly, the director has the statutory authority to adopt a reasonable rule necessary to enforce the definition and to administer this quoted factor. Deeming "prospective administrative expenses" as reasonable administrative expenses within a rate filing is appropriate, because 1) it is an unambiguous term within the actuarial context, 2) reviewing rates is always a matter of determining prospective losses and expenses in that the intent of a rate filing is to use the rates in the future to cover future expenses and future losses, and 3) calculating prospective administrative expenses involves using the insurance company's past administrative expenses as reasonable at the time they were incurred. No changes have been made to the rule as a result of this comment.

COMMENT #18: Mr. Carmody commented that the provisions of 20 CSR 500-5.026(3)(C)2., relating to a reasonable return on investment under section 383.206.2(10), RSMo, is contrary to the statute. In Mr. Carmody's opinion, the statute's requirement that the return on investment be "compared to other similar investments at the time of the rate request" requires that a ten (10)-year average not be employed in developing a safe harbor.
RESPONSE: The statutory requirement of reviewing similar investments "at the time of the rate request" has been complied by using the twenty (20)-year average because the twenty (20)-year average return on net worth is calculated using the twenty (20)-years next preceding the filing of the rates. The statute does not specify which period or how far back the comparison rate of return should be based and, therefore, it is within the discretion of the director in considering the factor of the rate of return to specify what will generally be considered a reasonable period. The twenty (20)-year average is reasonable because it will provide a stable rate of return; shorter periods would result in greater fluctuation, thereby defeating the public purpose of stability in medical malpractice insurance rates. No changes have been made to the rule as a result of this comment.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

ORDER OF RULEMAKING

By the authority vested in (and mandate directed to) the director of the Department of Insurance, Financial Institutions and Professional Registration by section 383.206.6, RSMo Supp. 2006, the director of said department makes the following order of rulemaking:

20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1408). A public hearing was held before the Joint Committee on Administrative Rules on November 26, 2007 and the committee voted to reject the proposed rule. The department is withdrawing the rule at this time in order to pursue a legislative clarification of the relevant statutes.

SUMMARY OF COMMENTS: A public hearing on the following proposed rules was held on October 1 and written comments were received until October 5, 2007: 1) 20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings; 2) 20 CSR 500-5.025 Determination of Inadequate Rates; 3) 20 CSR 500-5.026 Determination of Excessive Rates; and 4) 20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates. At the public hearing and in written comments, department staff explained the proposed rules and made comments in support of the proposed rules. Michael Delaney of Missouri Hospital Plan also made comments in support of the proposed rules. At the public hearing and in written comments, Donald R. Carmody, representing Missouri Professionals Mutual, and Dr. Rob Schaaf, representing Missouri Doctors Mutual Insurance Company, made comments in opposition to the rule. Except as specifically indicated, the comments were made in reference to any or all of the proposed rules.

COMMENT #1: Mr. Carmody and Dr. Schaaf commented that the proposed rules exceed the statutory authority because the proposed rules purport to regulate both base rates and actual rates rather than base rates alone, whereas the statutory rulemaking authority is limited to administration and enforcement of section 383.206, RSMo. Dr. Schaaf also commented that the rule's effect would be to limit schedule rating debits and credits to a particular policyholder and to its first policyholder.
RESPONSE: The proposed rules are supported by statutory authority. HB 1837 clearly recognizes that there are different types of rates by making reference to the following:

•383.107 requires the director to establish and publish a market rate reflecting the median of **actual rates** charged.

•383.108 requires the director to publish comparisons of **base rates** charged by insurers.

•383.203.1 Every insurer shall file with the director **all rates** and supplementary rate information.…

•383.206.1 …no insurer shall issue or sell … [med mal insurance] … if the director finds, based upon competent and compelling evidence, that the **base rates** of such insurer are excessive, inadequate, or unfairly discriminatory. A **rate** may be used…unless the director has determined …that the rate is excessive, inadequate or unfairly discriminatory.

•383.206.2 In making a determination under subsection 1 of this section, the director … may use the following factors:

(1) **Rates** shall not be excessive or inadequate, nor shall they be unfairly discriminatory;

(2) No **rate** shall be held to be excessive unless such rate is unreasonably high for the insurance proved with respect to the classification to which such rate is applicable;

Section 383.206 uses the term "base rates" only once in describing the director's authority. Elsewhere, the statute consistently uses the term "rates." In construing a statute, each word and phrase is presumed to have meaning; if the general assembly had intended to use the term "base rates" throughout the statute (and thereby restrict the regulatory scheme to base rates only), it would have done so. Accordingly, in order to give the two (2) terms meaning, the rule uses the term "base rates" to describe the starting points for determining the actual rate charged and the term "rates" to mean the actual rates charged. In addition, in the context of medical malpractice insurance rate making, a legislative scheme that applied only to base rates would be meaningless, because base rates have no practical consequence. Regulation of base rates alone would have no relevance to the revenues received by insurance companies or to the prices paid by health care providers for medical malpractice insurance. Such revenues and prices are determined by the actual rates, which deviate substantially and unpredictably from the base rates. Regarding

the comment of Dr. Schaaf as to particular policyholders and to a first policyholder, neither the rule nor the statute contains any prohibition against making rate filings for the purpose of either adjusting its base rate or its maximum annual aggregate schedule rating adjustments in order to adjust the rate filing to the actual business the insurance company is transacting. No changes have been made to the rule as a result of this comment.

COMMENT #2: Mr. Carmody commented that 20 CSR 500-5.020(2)(A)2. "is so poorly drafted that it fails to put insurers on notice of their obligations" and it would be "an unspeakable burden" to require insurers to provide its maximum positive and maximum negative allowable values of its annual aggregate schedule rating adjustments.
RESPONSE: The department's actuary's use of the term "average" in describing annual aggregate schedule rating adjustments was meant only to describe information that many insurers currently provide in rate filings. If an insurance company can now provide an average annual aggregate schedule rating adjustment, it can certainly provide a maximum annual aggregate schedule rating adjustment with even less burden on the insurance company. Moreover, the rule does not require separate maximums to be stated for each of six thousand (6,000)-plus rating classifications. Instead, an insurer may satisfy the rule with maximums stated that would apply to all of its rating classifications or to such groupings of classifications as the insurer specifies. No changes have been made to the rule as a result of this comment.

COMMENT #3: Dr. Schaaf commented that the department has statutory authority to regulate schedule rating by requiring that insurance companies demonstrate the relationship between the schedule rating credits and debits and insured losses in order to meet the requirement of actuarial support found in section 383.206.4, RSMo.
RESPONSE: The department agrees that it has the statutory authority to address the level of support for schedule rating debits and credits; however, the director believes that regulating the full range of rates that insurers actually charge is more consistent with the statutory scheme and would be less disruptive of the medical malpractice insurance market. At present (and for the foreseeable future), no actuarial support in the form of demonstrable relationships between the schedule rating credits and debits and insured losses exists. As a consequence of this lack of demonstrable relationships, a rule that would require insurance companies to demonstrate such relationships in order to supply the statutory requirement of actuarial support would in effect abolish schedule rating. No changes have been made to the rule as a result of this comment.

COMMENT #4: Dr. Schaaf commented that the rule would be applied in a retroactive manner, contrary to statutory authority, because the rule would be applied to rate filings made before the effective date of the statute, August 28, 2006.
RESPONSE: The rule would not have retroactive application, because the rule would be applied to rates that insurance companies will charge to insured physicians after the effective date of the rule. That such rates may be based upon a rate filing made before the effective date of the statute does not render the rule retroactive in application to rates that will be charged after the effective date of the rule. No changes have been made to the rule as a result of this comment.

COMMENT #5: Mr. Carmody commented, "It is illogical to think that the legislature would protect insurers by giving the director a list of factors to consider and then allow him to define those factors in any way he sees fit."
RESPONSE: The purpose of this, or any other, insurance law is to protect the public. Section 383.206, RSMo does allow the director to define those factors, but does not allow him to define them in any way he sees fit. Section 383.206.2, RSMo allows the director to consider several factors, most, if not all, of which are not self-evident. Section 383.206.6, RSMo provides the means by which the director will generally consider the several factors because it requires the director to adopt rules "for the administration and enforcement of this section." Such administration and enforcement would be rendered a nullity if broadly stated factors could not be defined in a way that would apply generally to all medical malpractice insurance rate filings. Rules, including this one, are subject to a standard of reasonableness, not a standard of "any way he sees fit." This comment provides no evidence that the director's rule is unreasonable. No changes have been made to the rule as a result of this comment.

COMMENT #6: Mr. Carmody stated, "Many of the definitions set forth in 20 CSR 500-5.020 are either under-inclusive, over-inclusive, or unnecessary."
RESPONSE: Most of the definitions used in the rule are based on definitions provided by the National Association of Insurance Commissioners (NAIC), definitions used in other rules or definitions found in standard actuarial publications. Moreover, contrary to Mr. Carmody's comments in elaboration on the quoted comment, everyone does not know what supporting actuarial data is or what information is necessary to support an insurer's rates. To leave terms undefined would place each insurance company at risk of future changes in the administration of section 383.206, RSMo without advance notice to the insurance company. No changes have been made to the rule as a result of this comment.

COMMENT #7: Mr. Carmody commented that 20 CSR 500-5.020 "will require insurers to divulge their trade secrets."
RESPONSE: To the extent that this comment is meant to indicate that the director may not obtain trade secret information, this comment ignores settled law that the director is authorized by law to view any and all records relating to the business of insurance. To the extent that the comment is meant to indicate a fear that the director would allow the public access to an insurer's trade secrets, the comment ignores the provisions of subsection (5)(C) of the rule that allows the director to maintain the insurer's trade secrets as confidential under the provisions of 20 CSR 10-2.400(8). No changes have been made to the rule as a result of this comment.

COMMENT #8: Mr. Carmody comments, "20 CSR 500-5.020 does not realistically set forth the private cost associated with compliance."
RESPONSE: Some companies already have much of the information and support needed to comply with the proposed rule and would incur relatively little additional cost to comply. Other companies have less sophisticated and developed information and support. The cost of compliance will therefore vary a great deal from company to company. Mr. Carmody's comments are apparently reflective of Missouri Professional Mutual's situation while the cost of compliance analysis filed with the rule reflects industry averages. The hearing record, consisting of both oral and written comments, reflects no comments from any actuary who will be or may become responsible for compiling or reviewing the information required by the rule, which requirement underlies the private entity costs, other than the department's own actuary. Given a choice between information provided by an actuary who has actually compiled the information required by the rule and actually reviewed such compilations made by other actuaries and information provided by persons who have neither the professional qualifications for nor the professional experience in insurance rate-making, the director will credit the testimony of the former. No changes have been made to the rule as a result of this comment.

COMMENT #9: In regard to 20 CSR 500-5.020(2)(A)2., Mr. Carmody comments that "it is impossible for an insurer to provide an accurate representation of 'the annual aggregate schedule rating adjustments…to all health care providers within a given

classification'…" and that "the rule is unclear as to what is actually required of insurers."

RESPONSE: The comment is not accurate. A doctor's risk profile as measured by a company's schedule rating plan typically does not change a great deal from year-to-year. As a practical matter a changing risk profile of exposures written by a company is manageable. Schedule rating adjustments are, by definition, discretionary on the part of the company. Many companies monitor and manage their schedule rating adjustments. The department currently has on file rate plans that state what the insurance company expects will be its average schedule rating adjustment. If an insurance company is sufficiently confident in its ability to monitor schedule rating adjustments so that it can predict an average schedule rating adjustment, it will be even less burdensome to monitor its business so that its annual aggregate schedule rating adjustments do not exceed stated maximum values. As to the clarity of the rule, a maximum value of aggregate annual schedule rating adjustment would be the maximum percentage of schedule rating adjustments that would take place in the aggregate during the course of a year. It represents what the maximum percentage deviation from base rates that could occur if all schedule rating adjustments from the base rates for a given year were summed and divided by the premium from base rates. Since the department has not heard from any actuary (other than its own) and the department has examples of the expected values of annual aggregate schedule rating adjustments being stated in rate filings, the rule is sufficiently clear (at least to the professionals required to comply with and administer it) that the rule is required the statement of maximum values of annual aggregate schedule rating adjustments. No changes have been made to the rule as a result of this comment.

COMMENT #10: Regarding 20 CSR 500-5.020(2)(B), Mr. Carmody comments that the rule is flawed because 1) "a mere officer, as opposed to a certified actuary, may lack the knowledge necessary to vouch for the validity of data he or she probably does not have the expertise to interpret" and 2) "such a certification would require an insurer to obtain an actuarial report for each and every one of its policyholders."

RESPONSE: As the first alleged reason, the rule does not require the insurance company's officer to vouch for the validity of data. Instead, the insurance company's officer is required to certify only that "the insurer's records contain actuarial support for each criteria used in a schedule rating plan and supporting actuarial data for each of the company's rates and for the insurer's rating plan and rating system." If the officer is not an actuary, the certification would still be valid if the insurer's records contained its actuary's support for each criteria. Moreover, the rule is based on the language used in subsections four and five of section 383.206, RSMo. As to the second reason, even though the language complained of is used in section 383.206.5, RSMo the director agreed to clarify the rule by inserting the word "filed" between the words "insurer's" and "rates," however, the rule was struck down by the Joint Committee on Administrative Rules. As a result, no changes have been made to the rule as a result of this comment.

COMMENT #11: Mr. Carmody proposes that 20 CSR 500-5.020(3) "specifically set forth the circumstances which must exist to enable the director to ask for" supporting actuarial data, in order to avoid what Mr. Carmody alleges is unfettered discretion by the director to repeatedly ask for supporting actuarial data.

RESPONSE: The director's discretion to ask for supporting actuarial data cannot be limited in advance of knowledge of the particular circumstances surrounding any specific request. However, section (3) implies that generally speaking supporting actuarial data would not be requested more than once per year. In addition, the director's request or requests for supporting actuarial data would be subject to judicial review for abuse of discretion. No changes have been made to the rule as a result of this comment.

COMMENT #12: Mr. Carmody commented that 20 CSR 500-5.020(4) contradicts section 383.203.2, RSMo, because it "seeks to remove all consequences of the director's potential failure to abide by section 383.203.2."

RESPONSE: This comment misconstrues 20 CSR 500-5.020(4). The complained-of provision does not rob section 383.203.2, RSMo of any meaning. That statute controls only the information-filing requirements (the director is given thirty (30) days to request additional information); it does not purport to indicate that should the director not request additional information, the rate filing itself is beyond substantive challenge. The provision of the rule at issue only makes clear what is implied in the statute: namely that substantive challenges (i.e., that a rate is inadequate, excessive or unfairly discriminatory) to an insurance company's rate filing are not waived or estopped merely because the director does not ask for additional information. The thirty (30) day requirement in section 383.303.2, RSMo affects only the director's authority to ask for the information required by the statute (or the rule enforcing it); it does not affect any other authority or responsibility of the director. No changes have been made to the rule as a result of this comment.

COMMENT #13: Mr. Carmody commented that 20 CSR 500-5.020(5)(C) should be changed by deleting "may" and inserting in lieu thereof the word "shall."

RESPONSE: In the context of this rule, the word "may" is proper. Compliance with the cross-referenced rule, 20 CSR 10-2.400(8) does not always result in maintaining a record as confidential, but does result in maintaining a record as confidential pending compliance with certain requirements that prior notice be given to the person requesting confidentiality of any pending public inspection. Accordingly, the information will be treated as confidential, unless and until the prior notice requirements specified in 20 CSR 10-2.400(8) are complied with. No changes have been made to the rule as a result of this comment.

COMMENT #14: Dr. Schaaf commented that the rule's definition of supporting actuarial data is not authorized by statute because the statute does not: 1) "mandate any particular supporting actuarial data"; 2) "define the term 'supporting actuarial data'"; 3) "mandate supporting actuarial data for anything other than for the use of debits and credits"; or 4) "mandate that an insurer certify that actuarial support exists for a debit or credit."

RESPONSE: Regarding reasons 1) and 2), the statute does not itself mandate what is included in "supporting actuarial data" or define "supporting actuarial data"; therefore, a definition must be supplied from some authority. The most logical such authority is the director, because administration of section 383.206, RSMo is generally vested in the director, the phrase would be within the expertise of the agency due to its reference to actuarial science, the statute requires the director to adopt rules, and no common law understanding exists as to the meaning of the quoted phrase. As to reason 3), 383.206.5, RSMo mandates "supporting actuarial data" not only in support of debits and credits, but also in support of "a rate, rating plan, or rating system filing." Regarding reason 4), the rule's provision for an insurance company's officer's certification is a procedural requirement that would demonstrate the insurance company in fact can meet the mandate of section 383.206.5, RSMo while the obligation to create supporting actuarial data is created by the statute itself; accordingly, such a certification provision is authorized by section 383.206.6, RSMo. No changes have been made to the rule as a result of this comment.

COMMENT #15: Dr. Schaaf commented that the department's contingent presumption that the maximum values of annual aggregate schedule rating adjustments will equal the sum of the maximum individual schedule rating adjustments is unreasonable.

RESPONSE: The department's contingency presumption is reasonable because it will apply only where the insurance company fails to

voluntarily set its own maximum values of annual aggregate schedule rating adjustments. In the absence of the insurance company's voluntary setting of maximum annual aggregate schedule rating adjustments, the only presumption that could be justified is the sum of the individual schedule rating adjustments. The insurance company completely controls whether or not the contingent presumption applies; accordingly, the insurance company should state a set of values for its maximum annual aggregate schedule rating adjustments. The hypothetical absence of values for maximum annual aggregate schedule rating adjustments would render the statute meaningless because it would result in regulation of only the base rates, which everyone involved in the insurance industry recognizes as irrelevant to the actual prices paid by policyholders and the revenues received by insurance companies. No changes have been made to the rule as a result of this comment.

COMMENT #16: Dr. Schaaf commented that the statute did not intend the "outrageous possibility" that a rate could be both inadequate and excessive at the same time, for example as given by Dr. Schaaf, if an insurance company's rate filing included individual maximum schedule rating adjustments of plus or minus fifty percent (50%) of the base rate.
RESPONSE: Prior to HB 1837, a company could have excessive base rates but, through predatory competitive practices, charge an actual rate that is inadequate. In this example the rule would require that both the base rates and the actual rates meet statutory requirements. The example provided by Dr. Schaaf does not support the conclusion of an "outrageous possibility" for a number of reasons. First, the example ignores the opportunity of the company to set its own maximum annual aggregate schedule rating adjustments, hopefully within a lesser range than plus or minus fifty percent (50%). Second, assuming that an insurance company would allow for a maximum annual aggregate schedule rating adjustment of plus or minus fifty percent (50%), the only outrageous possibility is the possibility that any insurance company could believe that 1) a two hundred percent (200%) range of rates would not produce an inadequate or excessive rate, or both or 2) the statute would permit an insurance company to use one (1) rate filing to support overall rate levels that differ by a factor of three (1.5 times the base rate is 3 times .5 times the base rate). No changes have been made to the rule as a result of this comment.

COMMENT #17: Dr. Schaaf commented that the rules are beyond the statutory authority of the director when they define the term prospective administrative costs and deem such costs to be reasonable administrative costs under the statute.
RESPONSE: Section 383.206.2(8), RSMo, vests in the director the authority to consider "reasonable administrative costs of the insurer." Section 383.206.6, RSMo, both authorizes and requires the director to adopt rules "for the administration and enforcement of this section." "Reasonable administrative costs of the insurer" is defined neither at common law nor in the statute. Accordingly, the director has the statutory authority to adopt a reasonable rule necessary to enforce the definition and to administer this quoted factor. Deeming "prospective administrative expenses" as reasonable administrative expenses within a rate filing is appropriate, because 1) it is an unambiguous term within the actuarial context, 2) reviewing rates is always a matter of determining prospective losses and expenses in that the intent of a rate filing is to use the rates in the future to cover future expenses and future losses, and 3) calculating prospective administrative expenses involves using the insurance company's past administrative expenses as reasonable at the time they were incurred. No changes have been made to the rule as a result of this comment.

COMMENT #18: Mr. Carmody commented that the provisions of 20 CSR 500-5.026(3)(C)2., relating to a reasonable return on investment under section 383.206.2(10), RSMo, is contrary to the statute. In Mr. Carmody's opinion, the statute's requirement that the return on investment be "compared to other similar investments at the time of the rate request" requires that a ten (10)-year average not be employed in developing a safe harbor.
RESPONSE: The statutory requirement of reviewing similar investments "at the time of the rate request" has been complied by using the twenty (20)-year average because the twenty (20)-year average return on net worth is calculated using the twenty (20)-years next preceding the filing of the rates. The statute does not specify which period or how far back the comparison rate of return should be based and, therefore, it is within the discretion of the director in considering the factor of the rate of return to specify what will generally be considered a reasonable period. The twenty (20)-year average is reasonable because it will provide a stable rate of return; shorter periods would result in greater fluctuation, thereby defeating the public purpose of stability in medical malpractice insurance rates. No changes have been made to the rule as a result of this comment.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.030, 328.040, 328.050.1, RSMo 2000 and 328.070, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2060-1.010 General Organization **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1586). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.060, and 328.150.2, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2060-1.015 Public Complaint Handling and Disposition Procedure **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1586). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.060, and 328.150, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2060-1.030 Requirement of Identification **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1586–1587). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.080 and 328.110, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2060-1.040 Reinstatement of Expired License **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1587). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.080 and 328.110, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2060-2.015 Licensure by Examination for a Barber **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1587). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.080, 328.090 and 328.110, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2060-2.020 Licensure by Examination for Instructor **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1587). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.085, RSMo Supp. 2006 and 328.100, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2060-2.030 Reciprocity **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1587–1588). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.075.3, 328.115.3 and 328.120, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2060-2.040 Barbershops **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1588). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.115 and 328.120, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2060-2.050 Barber School/College **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1588). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 3—Curriculum Requirements for Barber Schools/Colleges

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.150 RSMo 2000 and 328.080, 328.115 and 328.120, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2060-3.015 Rules and Curriculum Prescribed for Barber School/Colleges **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1588). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2060—State Board of Barber Examiners
Chapter 4—Sanitation Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Barber Examiners under sections 328.060.2 and 328.150, RSMo 2000 and 328.115, 328.130 and 328.160, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2060-4.015 Sanitation Rules **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1589). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 1—Organization and Description of Board

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.023 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-1.010 General Organization **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1589–1591). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 2—Public Complaint Handling and Disposition Procedures

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.150 and 329.140, RSMo 2000 and 620.010.15(6) and 329.025(1), RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-2.010 Public Complaint Handling and Disposition Procedures **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1592–1594). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 4—General Rules Applicable to All Licensees/Registrants

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.110, 329.025.1(7) and 329.120, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-4.010 Renewal Dates **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1595–1597). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 4—General Rules Applicable to All Licensees/Registrants

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025 and 329.025.1(7), RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-4.020 Change of Name and Mailing Address **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1598–1600). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 4—General Rules Applicable to All Licensees/Registrants

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.123, RSMo 2000 and 329.025.1, 329.110.1 and 328.130, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-4.030 Duplicate License **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1601–1604). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 4—General Rules Applicable to All Licensees/Registrants

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under section 329.025.1(7), RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-4.040 Requirement of Identification **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1605–1608). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 4—General Rules Applicable to All Licensees/Registrants

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.127, RSMo 2000 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-4.050 Certification of Licensure, Training Hours or Exam Scores **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1609–1612). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 4—General Rules Applicable to All Licensees/Registrants

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.090, 328.115, 329.025.1, 329.040 and 329.045, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-4.060 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1613–1615). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no comments; however one (1) change was made to the text of the rule based on the board's review.

COMMENT: During review of the proposed rule, the board noted a typographical error in section (1).
RESPONSE AND EXPLANATION OF CHANGE: Section (1) currently contains a single reference to an "apprentice." However, as reflected in the purpose statement and general text of the rule, the rule is only applicable to barber and cosmetology establishments and not individual licensees. To clarify the board's intent and avoid confusion, the term "apprentice" is being deleted.

20 CSR 2085-4.060 Inspections

(1) Every establishment and school licensed by the board shall be open to inspection by members, representatives, or inspectors of the board during normal working hours or at reasonable times as requested by the board. It shall be the responsibility of the holder(s) of the establishment or school license to keep the board informed of the licensee's business hours and to make the establishment or school available for inspection by the board or its representative. Establishment or school licensees shall promptly respond to a request by the board for a list of times during which the establishment or school is open.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 5—Barber Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.080 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-5.010 Licensure by Examination for a Barber **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1616–1619). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 5—Barber Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.080.4, 328.085.2 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-5.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1620–1623). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners, received no comments; however one (1) change was made to the rule based on their review.

COMMENT: During review of the proposed rule, the board noted an incorrect citation in section (1).
RESPONSE AND EXPLANATION OF CHANGE: The current proposal references the barber student training requirements of subsection 20 CSR 2085-12.030(1)(A). However, the barber student training requirements are included in Column A of 20 CSR 2085-12.030(1). The board is revising the proposed rule to include the proper citation.

20 CSR 2085-5.020 Credit for Out-of-State Barber Training

(1) Credit for Out-of-State Barber Training.

(A) Any person who lawfully practiced or received training in another state or country who does not qualify for licensure without examination may apply to the board for licensure by examination. The board will evaluate the applicant's experience and training to determine the extent to which the applicant's training and experience satisfies current Missouri licensing requirements. Any person that receives credit for out-of-state training but still does not meet the qualifications to take the Missouri barber examination will receive notice from the board of the exact training requirements necessary to completely satisfy the state examination qualifications as set forth in Chapter 328, RSMo. The applicant for licensure under this subsection shall pay the appropriate examination and licensure fees.

1. An applicant for the Missouri barber examination, as an apprentice or a student, who has obtained training hours outside Missouri may be given credit for those training hours so long as they were received from a licensed barber school or licensed apprentice program in another state.

2. For purposes of review of an application for examination from an applicant pursuant to section 328.085.2, RSMo, an applicant's training and experience will be deemed to satisfy current Missouri licensing requirements if the training and experience is substantially the same as the training and experience requirements for barbers in section 328.080, RSMo and Column A of rule 20 CSR 2085-12.030(1).

(B) Any person desiring credit for training received in another state shall submit an affidavit completed by the state licensing board or the school where the hours were completed which verifies the following: applicant name; school name and address; date of

termination of training; total hours earned by the student and distribution of those hours by subject for each of the subject areas required by section 328.080, RSMo and Column A of rule 20 CSR 2085-12.030(1), for which credit is sought. The affidavit shall be completed on a form supplied by the board and shall also contain the name and title of the person completing the form, the date completed and the state board seal, school seal or notary statement. Training completed by the applicant shall be recognized by the board for a period of no more than five (5) years.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 5—Barber Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.080 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-5.030 Reciprocity **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1624–1627). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 5—Barber Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 620.150, RSMo 2000 and 328.110 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-5.040 Barber Renewal and Inactive License Requirements **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1628–1631). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 5—Barber Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.110.2 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-5.050 Reinstatement of Expired Barber Licenses **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1632–1635). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 6—Barber Instructors

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.090 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-6.010 Licensure of Barber Instructors **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1636–1639). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 7—Cosmetology Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1, 329.050, 329.060 and 329.130.2, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-7.010 Qualifications for State Cosmetology Examinations **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1640–1644). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 7—Cosmetology Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1, 329.035 and 329.110.2, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-7.020 Practice Outside of or Away from Cosmetology Establishments **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1645–1647). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 7—Cosmetology Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.080.3, RSMo 2000 and 329.025.1, 329.085.5 and 329.130, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-7.030 Reciprocity and Out-of-State Training for Cosmetology **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1648–1651). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 7—Cosmetology Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 620.150, RSMo 2000 and 329.025.1 and 329.120, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-7.040 Cosmetologist Renewal and Inactive Status Requirements **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1652–1655). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 7—Cosmetology Licensing

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1 and 329.120, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-7.050 Reinstatement of Expired License **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1656–1659). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 8—Cosmetology Instructors and Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.080, RSMo 2000 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-8.010 Registration of Instructor Trainees **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1660–1663). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 8—Cosmetology Instructors and Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.080, RSMo 2000 and 329.025.1 and 329.040, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-8.020 Minimum/Maximum Hours Accepted **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1664–1666). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 8—Cosmetology Instructors and Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1, 329.085 and 329.090, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-8.030 Qualifications for Instructor Examination **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1667–1670). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 8—Cosmetology Instructors and Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1, 329.085.1 and 329.100, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-8.040 Failure of State Examination **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1671–1674). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 8—Cosmetology Instructors and Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.080, RSMo 2000 and 329.025.1 and 329.085, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-8.050 Transfer **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1675–1677). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 8—Cosmetology Instructors and Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1, 329.085.3, 329.085.6 and 329.120, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-8.060 Reinstatement of Expired Instructor License **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1678–1681). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 8—Cosmetology Instructors and Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 620.150, RSMo 2000 and 329.025.1 and 329.085, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-8.070 Instructor Renewal and Inactive License Requirements **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1682–1685). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 8—Cosmetology Instructors and Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1 and 329.085.5, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-8.080 Credit for Out-of-State Instructor Training **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1686–1688). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 9—Apprenticeships—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.075, 328.080, 329.025.1, 329.060, 329.070 and 329.090, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-9.010 Apprentices **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1689–1693). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 9—Apprenticeships—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.075, 328.130, 329.025.1 and 329.050.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-9.020 Apprentice Supervisors **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1694–1699). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 9—Apprenticeships—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.075, 328.115, 329.025.1 and 329.045, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-9.030 Apprentice Establishments **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1700–1702). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 10—Establishments (Shops)—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.115, 329.025.1, 329.045, 329.110 and 329.120, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-10.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1703–1708). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no written comments; however one (1) change was made to the text of the rule based on their review.

COMMENT: During review of the proposed rule, the board noted a typographical error in section (2).
RESPONSE AND EXPLANATION OF CHANGE: As indicated in the purpose section and throughout the text of the rule, the rule is applicable to both barber and cosmetology establishments. However, a portion of section (2) of the rule inadvertently contains a reference to only "cosmetology" establishments. To clarify the board's intent and the applicability of the proposed rule to all barber and cosmetology establishments, the board is deleting the term "cosmetology."

20 CSR 2085-10.010 Licensing—Barber Establishments and Cosmetology Establishments

(2) Rental Space/Chair Licensing. Any person licensed by the board who rents individual space or a booth/chair within a licensed establishment for the purposes of practicing as a barber or cosmetologist shall be required to obtain a separate establishment license for the rental space. Licensees that rent individual space or a booth/chair within a licensed barber or cosmetology establishment for the purposes of operating as a barber or cosmetologist must possess a current establishment license as well as an operator license. This section does not apply to licensees operating as establishment employees.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 10—Establishments (Shops)—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.115, 329.025.1 and 329.045, RSMo Supp. 2006 and 329.030, RSMo 2000, the board adopts a rule as follows:

20 CSR 2085-10.020 Barber and Cosmetology Establishment License Changes **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1709–1712). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 10—Establishments (Shops)—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.115, 329.025.1 and 329.045, RSMo Supp. 2006 and 329.030, RSMo 2000, the board adopts a rule as follows:

20 CSR 2085-10.030 Record Keeping **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1713–1715). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 10—Establishments (Shops)—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.115 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-10.040 Specific Barber Establishment Requirements **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1716–1719). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 10—Establishments (Shops)—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.010.6, 329.025.1 and 329.045, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-10.050 Specific Cosmetology Establishment Requirements **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1720–1723). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 10—Establishments (Shops)—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.030, RSMo 2000 and 328.020, 328.130, 329.025.1 and 329.110.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-10.060 Unlicensed Activity **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1724–1726). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 11—Sanitation Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.060.2 and 328.100, RSMo 2000 and 328.115 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-11.010 Barber Sanitation Rules **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1733–1737). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 11—Sanitation Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under section 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-11.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1738–1742). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no written comments; however one (1) change was made to the text of the rule based on their review.

COMMENT: During review of the proposed rule, the board noted typographical errors in subsection (2)(E) and subparagraph (2)(F)2.E.
RESPONSE AND EXPLANATION OF CHANGE: As indicated in the title, purpose section and text of the rule, the proposed rule contains provisions governing sanitation rules for cosmetologists. However, portions of the rule inadvertently referenced "barbers." To clarify the board's intent and the applicability of the proposed rule to only cosmetologists, the board is replacing the reference to "barbers" with the appropriate cosmetology reference.

20 CSR 2085-11.020 Cosmetology Sanitation Rules

(2) Sanitation Requirements.

(E) Disease Control. Except as otherwise provided by the Americans With Disabilities Act, a licensee, apprentice, student or retail cosmetic salesperson providing cosmetology services with a communicable disease shall take all proper precautions to prevent the spread of the disease to any person while practicing barbering, cosmetology or acting as a salesperson. A licensee, apprentice or student attending a patron known by the licensee, apprentice or cosmetologist to have a communicable disease shall also take all proper precautions to prevent the spread of the disease to any person, except as otherwise provided by the Americans With Disabilities Act. Disposable gloves shall be worn by any licensee, apprentice or student with open wounds, dermatitis, or other non-intact skin of the hands.

(F) Blood Spill Procedures. If a cut is sustained or a blood spill should occur, the following steps must be followed by the licensee, apprentice or salesperson:

1. Licensee, apprentice, student or salesperson cut/blood spill procedure:

A. Licensee, apprentice, student or salesperson must stop service immediately;

B. Clean cut area with soap (liquid or powder) and water and apply antiseptic. If necessary, liquid, spray or powder styptic may be applied to stop bleeding. Note: Do not allow containers, brushes or nozzles to touch or contact the wound—use an applicator as appropriate;

C. Cover injury with adhesive bandage;

D. If work area and/or equipment are soiled with blood, the licensee, student, apprentice or salesperson shall place disposable gloves or a finger guard on their hands and clean/disinfect the area

and soiled objects;

E. Dispose of all contaminated objects and disposable gloves in a covered waste receptacle and clean hands with an antimicrobial cleanser; and

F. Place a clean disposable glove on if cut is sustained on the hand.

2. Patron cut/blood spill procedure:

A. Licensee or student must stop service immediately;

B. Licensee or student must place disposable gloves on hands;

C. Cleanse cut area of patron, apply antiseptic and/or liquid styptic or spray styptic, as necessary. Note: Do not allow container or nozzles to touch or contact the wound—use an applicator as appropriate;

D. Cover cut area with adhesive bandage as indicated;

E. If work area and/or equipment are soiled with blood, licensee or student cosmetologist shall disinfect work area and/or blood spill area and dispose of or disinfect all contaminated objects; and

F. Remove and dispose of all contaminated objects and disposable gloves and clean hands with an antimicrobial cleanser.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 11—Sanitation Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1 and 329.035.3, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-11.030 Sanitation for Retail Cosmetic Sales Counters **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1743–1746). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.090 and 328.120 and 329.025.1 and 329.040, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-12.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1747–1754). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no written comments; however one (1) change was made to the rule based on their review.

COMMENT: During review of the proposed rule, the board noted an incorrect citation in section (7).
RESPONSE AND EXPLANATION OF CHANGE: The current section (7) references the student termination requirements "as set forth in subsection (9)(B)" of the proposed rule. However, the termination requirements are included in subsection (9)(C) of the proposal. To provide clarification, the board is revising the proposed rule to include the proper citation.

20 CSR 2085-12.010 General Rules and Application Requirements for All Schools

(7) Renewals.

(B) The holder(s) of a school license which has not been renewed by the date shall be required to submit a late fee in addition to the biennial renewal fee in order to reinstate the license. The holder(s) of a school license failing to reinstate the license within fourteen (14) days following the board's mailing by certified mail of notice to the holder(s) shall be subject to disciplinary action, shall terminate all students enrolled in the school as set forth in subsection (9)(C) of this rule and may reapply for a school license in accordance with the provisions of section (2) of this rule.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.020, 328.090 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-12.020 Specific Requirements for Barber Schools **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1755–1759). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.090, 328.120 and 329.025(1), RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-12.030 Curriculum Prescribed for Barber Schools/Colleges **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1760–1762). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.120 and 329.025(1), RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-12.035 Requirements for Barber Students **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1763–1766). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025(1) and 329.040, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-12.040 Specific Requirements for Cosmetology Schools **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1767–1772). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025(1) and 329.040, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-12.050 Curriculum Prescribed for Cosmetology Schools **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1773–1775). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1, 329.040 and 329.050, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-12.060 Requirements for Cosmetology Students **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1776–1779). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1, 329.040 and 329.050, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-12.070 Manicuring Schools **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1780–1784). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1 and 329.040, RSMo Supp. 2006 and 329.030, RSMo 2000, the board adopts a rule as follows:

20 CSR 2085-12.080 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1785–1789). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners made one (1) change to the rule based on their review.

COMMENT: During review of the proposed rule, the board noted an incorrect citation in section (3).
RESPONSE AND EXPLANATION OF CHANGE: The current section (3) references the esthetician student instruction requirements of 20 CSR 2085-9.060. However, the esthetician student instruction requirements are included in 20 CSR 2085-12.050. To provide clarification, the board is revising the proposed rule to include the proper citation.

20 CSR 2085-12.080 Esthetic Schools

(3) Instruction. Students in a school of esthetics shall comply with all requirements of 20 CSR 2085-12.050.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.080, RSMo 2000 and 329.025.1, 329.040, 329.050 and 329.085, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-12.090 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1790–1794). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no written comments; however one (1) change was made to the rule based on their review.

COMMENT: During review of the proposed rule, the board noted an incorrect citation in subsection (4)(D).
RESPONSE AND EXPLANATION OF CHANGE: The current subsection (4)(D) references the change of status requirements in section 20 CSR 2085-8.010(3). However, the change of status requirements are included in section 20 CSR 2085-8.010(4). To provide clarification, the board is revising the proposed rule to include the proper citation.

20 CSR 2085-12.090 Cosmetology Instructor Training Schools and Instructor Trainees

(4) Training and Calculation of Hours.

(D) No instructor trainee shall be permitted to change his/her designated status of enrollment except by the submission of a properly completed change of status form to the board in accordance with 20 CSR 2085-8.010(4).

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.010 Definitions **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1795–1797). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1798–1800). The section with changes is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no comments; however one (1) change was made to the rule based on their review.

COMMENT: During review of the proposed rule, the board noted the need for clarification, in section (2), that the rule is applicable to all crossover licensees.
RESPONSE AND EXPLANATION OF CHANGE: The rule references "all crossover licensees," yet the board is proposing to add a specific reference to crossover establishments. This addition will clarify that crossover establishment license holders are entitled to a single crossover license in the same manner as all other crossover licensees.

20 CSR 2085-13.020 Rules Applicable to All Crossover Licensees

(2) Applicants who successfully complete the requirements for a crossover license shall be issued a single crossover license. Upon issuance of a crossover license, any individual barber, cosmetology, establishment, school or instructor license issued by the board shall become null and void and shall be immediately returned to the board office. A crossover licensee shall comply with all rules relating to the posting of a license issued by the board provided that a crossover licensee may display the single crossover license as evidence of licensure for both barbering and cosmetology professions.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.030 Crossover Operator Licensing—(New Licensees) **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1801–1803). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.040 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1804–1808). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no written comments; however six (6) changes were made to the text of the rule based on their review.

COMMENT: During review of the proposed rule, the board noted designated citations that were incorrect and that clarification of the qualification requirements for a crossover Class-CH or Class-CA cosmetology license was needed.
RESPONSE AND EXPLANATION OF CHANGE: The current section (1) references the crossover operator licensure requirement of 20 CSR 2085-13.020. However, the crossover licensure requirements are included in 20 CSR 2085-13.030. Additionally, subsection (5)(A) references the Class-CH and Class-CA crossover licensing requirements of section (2) of the rule. However, the requirements for a crossover Class-CA or Class-CH license are included in section (3) of the rule. Further, subsections (3)(B) and (4)(A) contain a general reference to the Class-CA and Class-CH cosmetology training hours required under proposed rule 20 CSR 2085-12.050. To avoid confusion, the rule is being amended to specifically identify the exact portions of the training requirements in 20 CSR 2085-12.050 that are applicable to the license sought. Although this designation is clear in 20 CSR 2085-12.050, the board would also like to provide a specific reference in the current proposed rule. Additionally, to receive credit for training or experience towards a crossover Class-CA or Class-CH license, the current proposed rule identifies standards for those applicants with two (2) years experience and standards for applicants with three (3) years of experience. The provisions of subsections (3)(C) and (4)(A) are being amended to clarify that an applicant must not have been subject to disciplinary action within the two (2) or three (3)-year period for which experience/credit will be given.

20 CSR 2085-13.040 Crossover Operator Licensing—(Currently Licensed Barbers)

(1) The provisions of this rule are applicable to applicants for a crossover license to practice cosmetology that currently hold an active Missouri barber license issued by this board. A licensed Missouri barber may only apply for a cosmetology license under this rule if the applicant's Missouri barber license is active, in good standing and not subject to any disciplinary terms. Missouri barbers who are not eligible for licensure under this rule shall comply with the requirements of 20 CSR 2085-13.030 to be eligible for a crossover license to practice any of the classified occupations of cosmetology.

(3) Class-CH Licenses (Hairdressing). Barber applicants for a crossover Class-CH cosmetology license shall be required to complete all Class-CH training and education requirements required by this rule. Applicants that are Missouri licensed barbers prior to applying for a crossover Class-CH cosmetology license shall be credited by the board for their previous barber experience and/or training as provided by herein.

(B) The five hundred (500) hours of cosmetology training required by this rule shall be taken in any of the cosmetology subject areas identified in Column B of 20 CSR 2085-12.050. Two (2) years of experience as a Missouri licensed barber immediately prior to the time of application may be substituted for two hundred fifty (250) of the required five hundred (500) hours of training and three (3) years of experience as a Missouri licensed barber may be substituted for all of the five hundred (500) required hours of additional cosmetology training. Barber applicants shall only be credited for training as provided in this rule if the applicant's Missouri barber license was active, in good standing and not subject to any probationary terms or disciplinary action by the board during the entire term of the applicable two (2)- or three (3)-year licensing period.

(4) Class-CA licenses. Barber applicants for a crossover Class-CA cosmetology license shall be required to complete all Class-CA training and education requirements required by this rule. Applicants that hold a current Missouri barber license at the time application is made for a crossover Class-CA cosmetology license shall be credited by the board for their previous barber experience and/or training as provided by this rule.

(A) Education. Barber applicants for a crossover Class-CA cosmetology license shall complete a minimum of five hundred (500) hours of cosmetology training, in the following subjects:

Subject	Hours
Manicuring, hand and arm massage and treatment of nails	220
Sanitation and Sterilization	25
Anatomy	15
Study of the use and application of certain chemicals	40
Additional cosmetology training	200

The "additional cosmetology training" hours identified herein may be taken in any of the cosmetology subject areas identified in Column B of 20 CSR 2085-12.050. Two (2) years of experience as a Missouri licensed barber immediately prior to the time of application may be substituted for two hundred fifty (250) of the required five hundred (500) hours of training and three (3) years of experience as a Missouri licensed barber may be substituted for all of the five hundred (500) required hours of additional cosmetology training. Barber applicants shall only be credited for training as provided in this rule if the applicant's Missouri barber license was active, in good standing and not subject to any probationary terms or disciplinary action by the board during the entire term of the applicable two (2)- or three (3)-year licensing period.

(5) Apprenticeships. A Missouri licensed barber may apply for a cosmetology apprenticeship training program to qualify for a crossover license to practice cosmetology. Apprentice applicants shall be subject to and must comply with all rules applicable to cosmetology apprentices for the license requested, including 20 CSR 2085-9.010(1) and (2). Applicants that hold a current Missouri barber license shall not be required to resubmit with their applications for an apprenticeship proof of age or two (2) character references, unless otherwise requested by the board.

(A) Applicants for an apprenticeship shall complete all cosmetology apprentice hours required by Missouri law, provided that barber applicants who are eligible for a crossover Class-CA or Class-CH cosmetology license under section (3) of this rule shall only be required to complete a minimum of one thousand (1,000) apprentice hours for the license requested.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1809–1812). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no written comments; however four (4) changes were made to the rule based on their review.

COMMENT: The board reviewed the proposed rule and determined that a designated citation was incorrect and that clarification was needed for the qualification requirements for a Class-CH or Class-CA cosmetologist seeking a crossover operator license.
RESPONSE AND EXPLANATION OF CHANGE: The current section (1) references the crossover operator licensure requirement of 20 CSR 2085-13.020. However, the crossover licensure requirements are also included in 20 CSR 2085-13.030. Additionally, the training requirements in section (3) of the rule are being amended to correctly reflect that an additional forty-five (45) hours will be required for designated crossover applicants. Although section (3) identifies that an additional forty-five (45) hours of training for an applicant may be necessary by subject area, other provisions of the rule mistakenly reference forty (40) hours. Additionally, subsection (3)(C) is being amended to specifically identify Class-CA or Class-CH licensees. Although Class-CA and Class-CH licensees are identified in the heading of section (3) and in subsections (3)(A) and (3)(B), the board would also like to add specific references to Class-CA or Class-CH in subsection (3)(C) to avoid confusion to its applicability.

20 CSR 2085-13.050 Crossover Operator Licensing—(Currently Licensed Cosmetologists)

(1) The provisions of this rule are applicable to applicants for a crossover license to practice as a barber that currently hold an active Missouri cosmetology license issued by this board. A licensed Missouri cosmetologist may only apply for a barber license under this rule if the applicant's Missouri cosmetology license is active, in good standing and not subject to any disciplinary terms. Missouri cosmetologists who are not eligible for licensure under this rule shall comply with the requirements of 20 CSR 2085-13.020 and 20 CSR 2085-13.030 to be eligible for a crossover license to practice as a barber.

(3) Class-CH and Class-CA Licensees. Applicants that are licensed by this board as a Class-CH or Class-CA cosmetologist prior to applying for a crossover barber license shall be credited by the board for their previous cosmetologist/barber experience and/or training as provided by this rule.

(A) Education. To be eligible for licensure, a Missouri licensed cosmetologist shall complete a minimum of forty-five (45) hours of barber training, in the following subjects:

Subject	Hours
History	5
Shaving	40

(C) Any Class-CH or Class-CA cosmetologist that has been licensed by this board as a cosmetologist for less than one (1) year shall be required to take and successfully pass the written and practical portion of the state barber examination. A cosmetologist who has been actively licensed by this board as a Class-CH or Class-CA cosmetologist for at least one (1) year immediately prior to applying for a crossover barber license shall only be required to pass that portion of the state barber examination that is applicable to shaving, provided that the applicant's Missouri cosmetology license must have been active, in good standing and not subject to any probationary terms or disciplinary action during the one (1)-year licensing period.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.060 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1813–1817). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no written comments; however changes were made to the rule based on their review.

COMMENT: The board reviewed the rule and determined that subsection (4)(A) needed to be amended to comply with the requirements of section 329.045.2, RSMo and a typographical error needed to be corrected.
RESPONSE AND EXPLANATION OF CHANGE: Currently, section 329.045.2, RSMo grants a licensed establishment forty-five (45) days to apply for a new license with the board after a change of ownership or location. Although the heading of subsection (4)(A) of the proposed rule and the remaining provisions of section (4) reference requirements for obtaining a new establishment license after a change of location or ownership, the section inadvertently included the word "name" in its provisions. However, the rules governing the name change of an establishment are included in section (6) of the proposed rule. To avoid confusion, the board is deleting the word "name" in subsection (4)(A) to ensure the section is consistent with the heading of section (4) and in compliance with section 329.045.2., RSMo.

20 CSR 2085-13.060 Crossover Establishments

(4) Original Licensure. A crossover establishment license shall only be valid for the owners, address and name provided for the establishment in the initial crossover establishment license application. The initial license holder shall retain establishment ownership and responsibility for ensuring that the establishment is operated according to all applicable provisions of Chapter 328, and Chapter 329, RSMo, and the regulations of the board.

(A) Change of Location or Ownership. If at any time during the license period the establishment location and/or ownership changes, the owner(s) of the establishment shall submit an application for a new establishment license to the board within forty-five (45) days after the ownership or location change and the applicable change of location and/or ownership fee. The original license of the establishment shall become void as to the new location and/or new owners upon expiration of the forty-five (45)-day period and shall be returned to the board. No barber or cosmetology services shall be performed or offered to be performed under the new ownership or at the new location after the forty-five (45)-day period expires until the establishment is issued a license by the board for the new owners and/or new location.

1. New ownership. It is the responsibility of the new owner(s) to submit the establishment application to the board accompanied by the change of ownership fee.

2. Adding a co-owner. It shall be the responsibility of the co-owners to submit the establishment location to the board accompanied by the applicable fee.

3. Deleting a co-owner. If a co-owner(s) ceases ownership of an establishment, it shall be the responsibility of the establishment's remaining owner(s) to notify the board of this change in writing. The written notice shall serve as documentation of the change and a new application shall not be required.

4. A corporation is considered by law to be a separate person. If a corporation owns an establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change. However, as a separate person, if a corporation begins ownership of an establishment or ceases ownership of an establishment, a new establishment license must be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

5. A crossover establishment license shall not be issued until the establishment passes a board inspection, the establishment is in compliance with all applicable sanitation rules and the application is approved by the board.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.070 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1818–1824). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no written comments; however one (1) change was made to the rule based on their review.

COMMENT: During review of the proposed rule, the board noted an incorrect citation in subsection (2)(A).

RESPONSE AND EXPLANATION OF CHANGE: The current subsection (2)(A) references the crossover school application requirements in section 20 CSR 2085-12.010(2). However the crossover school application requirements are included in the entire portion of 20 CSR 2085-12.010. To provide clarification and avoid confusion, the board is revising the proposed rule to include the proper citation.

20 CSR 2085-13.070 Crossover Schools

(2) Application Requirements. School applicants shall submit one (1) floor plan for the entire crossover facility. Floor plans shall comply with the square footage requirements for both barber schools and the applicable cosmetology school and shall clearly indicate the separately designated clinical areas for barber and cosmetology students required by section (3) of this rule.

(A) Applications for a crossover school license will be reviewed and approved as provided in 20 CSR 2085-12.010. Final approval of a crossover school license by the board will be made upon final inspection of the school establishment. Applicants for a crossover school license that are licensed to operate a barber or cosmetology school at the time of application for a crossover school license shall be required to undergo a final inspection of the entire crossover facility.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.080 Crossover Instructors **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1825–1827). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.090 Crossover Reciprocity **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1828–1830). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 13—Crossover Licenses

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under Chapters 328 and 329, RSMo 2000 and Supp. 2006 and sections 329.010.7 and 329.025.1, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2085-13.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1831–1833). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Cosmetology and Barber Examiners received no written comments; however one (1) change was made to the rule based on their review.

COMMENT: During review of the proposed rule, the board noted an incorrect citation in subsection (1)(C).
RESPONSE AND EXPLANATION OF CHANGE: The current subsection (1)(C) references the renewal requirements of proposed rule section 20 CSR 2085-10.010(5). However, the applicable renewal requirements referenced are included in proposed rule 20 CSR 2085-10.010(4). To provide clarification and avoid confusion, the board is revising the proposed rule to include the proper citation.

20 CSR 2085-13.100 Crossover Renewals, Inactive Licenses and Reinstatements

(1) Renewals. Every two (2) years (biennially) the renewal application for active crossover licensees must be completed, signed, accompanied by the appropriate renewal fee, and returned to the board office prior to the expiration date of the license. All licenses shall expire on September 30 of each odd-numbered year. Any application postmarked after September 30 will be returned and the applicant will be required to reinstate.

(C) Renewal applicants for a crossover school or establishment license shall comply with 20 CSR 2085-12.010(7) and 20 CSR 2085-10.010(4).

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 14—Violations and Hearings

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.160 and 329.025.1, RSMo Supp. 2006 and 328.150, 329.140, 329.250 and 329.255, RSMo 2000, the board adopts a rule as follows:

20 CSR 2085-14.010 Violations **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1834–1836). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 14—Violations and Hearings

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1 and 621.045.1, RSMo HB 780 merged with SB 308, 94th General Assembly, First Regular Session (2007), the board adopts a rule as follows:

20 CSR 2085-14.020 Hearings and Review **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1837–1839). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 1—Organization and Description of Board

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.190, RSMo Supp. 2006 and 329.191 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-1.010 General Organization **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1840). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 2—Cosmetology Schools

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040, 329.050, 329.120 and 329.210, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2090-2.010 Schools **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1840). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 2—Cosmetology Schools

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040, 329.120 and 329.210, RSMo Supp. 2006 and 329.230 and 329.250, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-2.020 Manicuring Schools **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1840). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 2—Cosmetology Schools

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040, 329.050, 329.120 and 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-2.030 Esthetic Schools **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1840–1841). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission

becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 3—Students

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040, 329.050, 329.070 and 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-3.010 Students **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1841). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 4—Cosmetology Establishments

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.010, 329.045, 329.050 and 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-4.010 Cosmetology Establishments **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1841). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 4—Cosmetology Establishments

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000 and 329.110.2 and 329.210, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2090-4.020 Practice Outside of or Away from Beauty Shops **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1841). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 5—Apprentices

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-5.010 Apprentices **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1842). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 7—Reciprocity

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.130 and 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-7.010 Reciprocity **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1842). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 8—Training Hours

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040 and 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-8.010 Hours **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1842). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 9—Hearing and Review

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-9.010 Hearing and Review **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1842–1843). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 10—Violations of Cosmetology Laws and Regulations

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-10.010 Violations **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1843). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 11—Sanitation

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.140 and 329.230, RSMo 2000 and 329.035 and 329.210, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2090-11.010 Sanitation **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1843). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 11—Sanitation

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-11.020 Sanitation for Retail Cosmetic Sales Counters **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1843). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 12—Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-12.010 School Requirements **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1843–1844). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 12—Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the

board rescinds a rule as follows:

20 CSR 2090-12.020 Registration of Instructor Trainees **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1844). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 12—Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-12.040 Qualifications for Instructor Examination **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1844). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 12—Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-12.050 Failure of State Examination **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1844–1845). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 12—Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-12.060 Transfer **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1845). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 12—Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-12.070 Reinstatement of Expired Instructor License **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1845). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 12—Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000 and 329.120 and 329.210, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2090-12.080 Renewal Requirements for Instructor License **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1845). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 12—Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-12.090 Credit for Out-of-State Training **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1845–1846). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 12—Instructor Trainees

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-12.100 Minimum/Maximum Hours Accepted **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1846). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 13—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under section 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-13.020 Reinstatement of Expired License **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1846). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 13—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-13.030 Certification of Licensure, Training Hours, Exam Scores or any Combination of These **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1846–1847). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 13—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under section 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-13.040 Duplicate License **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1847). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 13—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.210, RSMo Supp. 2006 and 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-13.050 Renewal, Inactive Status, and Reactivation Requirements for Cosmetologists and Instructors **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1847). No changes have been made to the proposed

rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 13—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under section 329.230, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-13.060 Requirement of Identification **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1847). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 13—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.230, RSMo 2000 and 329.120 and 329.210, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2090-13.070 Change of Name and Mailing Address **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1847–1848). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2090—State Board of Cosmetology
Chapter 14—Public Complaint Handling and Disposition Procedure

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under section 329.140, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2090-14.010 Public Complaint Handling and Disposition Procedure **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1848). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.