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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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

Missouri Participating Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Documents Law (section 181.100, RSMo Supp. 2007), are available in the listed participating libraries, as selected by the Missouri State Library:

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Washington University Law Library Washington University Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6443	Kansas City Public Library 14 West 10th Street Kansas City, MO 64105 (816) 701-3546	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65211-7298 (573) 882-9369	Springfield-Greene County Library 4653 S. Campbell Springfield, MO 65801-0760 (417) 874-8110
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HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

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

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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division
of Personnel
Chapter 3—Personnel Selection, Appointment,
Evaluation and Separation**

PROPOSED AMENDMENT

1 CSR 20-3.070 Separation, Suspension and Demotion. The Personnel Advisory Board is adding subsections (5)(C) through (5)(F) to this rule.

PURPOSE: This amendment provides direction to the parties involved in non-merit appeals before the board and section 105.055, RSMo appeals before the board.

(5) Dismissals. An appointing authority may dismiss for cause any employee in his/her division occupying a position subject hereto

when s/he considers the action is required in the interests of efficient administration and that the good of the service will be served.

(C) For non-merit agencies that have elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or have failed to adopt dismissal procedures substantially similar to those provided for merit employees, the following applies:

1. No dismissal of a non-merit employee shall take effect unless, prior to the effective date of the dismissal:

A. The appointing authority gives the employee a written statement setting forth in substance why this dismissal is for the good of the service or not against the good of the service;

B. The appointing authority informs the employee of his/her appeal rights and provides the employee with a copy of the form for appeal to the board prescribed in 1 CSR 20-4.010(3)(A)1.; and

C. The appointing authority files a copy of the statement with the director.

2. This regulation does not require that the appointing authority articulate "cause" or a reason for the employee's dismissal. Further, the terms "cause" and "for the good of the service" are not synonymous.

(D) Any regular non-merit employee who is dismissed from an agency that has elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or has failed to adopt dismissal procedures substantially similar to those provided for merit employees, shall have the right to appeal in writing within thirty (30) days after the effective date of the dismissal. The appeal shall set forth in substance reasons for claiming the dismissal were for political, religious, or racial reasons or not for the good of the service, as provided in section 36.390.9, RSMo.

(E) Any regular non-merit employee whose agency has elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or has failed to adopt dismissal procedures substantially similar to those provided for merit employees, has the burden of proving that his/her dismissal was for political reasons, religious reasons, racial reasons, or not for the good of the service and shall produce his/her evidence first.

(F) Any regular merit or non-merit employee who appeals to the board solely under section 105.055, RSMo has the burden of proof and shall produce his/her evidence first. Any appeal where the regular merit or non-merit employee has filed both under Chapter 36, RSMo and under section 105.055, RSMo where the burden of proof for Chapter 36, RSMo is on the appointing authority and for section 105.055, RSMo is on the appealing employee, the appointing authority shall produce his/her evidence first.

AUTHORITY: section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 15, 2008.

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 Director of Personnel, Office of Administration, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 1:00 p.m., November 12, 2008

in Room 510 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.

Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division
of Personnel
Chapter 4—Appeals, Investigations, Hearings and
Grievances

PROPOSED AMENDMENT

1 CSR 20-4.010 Appeals. The Personnel Advisory Board is amending section (3) of this rule.

PURPOSE: This amendment provides deadlines for subpoenas requested that will be fair to the parties. It also provides clarity concerning the appointing authority's presence at a hearing.

(3) Appeals Must Be Submitted and Hearings Conducted Following the Procedures and Guides Provided in this Rule.

(A) Appeal submission and preparation for hearing are governed by the following provisions:

1. Appeals shall be written. The appeal may be filed by fax, by mail, or by other delivery to the board's office. The written appeal must provide substantially the following information: appellant's name; appointing authority and agency; the type of disciplinary action appealed; the effective date of the disciplinary action; the appellant's reason for appealing the disciplinary action; the appellant's response to the reasons given by the appointing authority; names of witnesses to be subpoenaed if a hearing is granted; a detailed description of any books, papers, or records to be subpoenaed, along with their location, and a statement of the reasons that the items are needed for the hearing; the name, address, telephone number, and signature of the appellant's attorney, if any; and the appellant's signed acknowledgement and certification of truth for the information supplied in the written appeal;

2. The appellant may file the appeal on the form for appeal prescribed by the board. The information required for completion of that form shall be deemed sufficient to satisfy the requirement for a written appeal. The board will provide to the appellant or to the appointing authority, on request, a copy of the current form for appeal. The appointing authority shall deliver a copy of the form to an employee receiving any appealable disciplinary action. The completed form or other written appeal must be received at the office of the board within thirty (30) days after the effective date of the disciplinary action appealed. A copy of the appellant's contentions set out in the appeal will be furnished to the appointing authority;

3. A party may file a document by—

A. Registered or certified mail. A document filed by registered or certified mail is deemed filed on the date that it is delivered to and received by the board;

B. Electronic facsimile transmission (fax). A document filed by fax is deemed filed at the time the board receives a fax of the complete document, provided that the original of the document is sent to the board and received within ten (10) business days of the fax. If a document arrives by fax after 5:00 p.m. and before 12:00 midnight or on a Saturday, Sunday, or legal holiday, it is filed on the board's next business day, unless the board orders otherwise;

(I) The time controlling when a fax arrives at the board's office is the board's fax machine's journal;

(II) The person fax filing a document bears the risk of loss in transmission, nonreceipt, or illegibility. If the document is not received or is materially illegible, the document is deemed not filed and totally null and void for all purposes;

(III) Any party or attorney who lists a fax number on a letterhead or pleading in the case file or in a telephone or professional directory or otherwise shall be deemed to have consented to receive

service of documents by fax from the board or any other party or attorney; or

C. Any other method. A document filed by any method other than registered mail, certified mail, or fax is deemed filed on the date the board receives the document in its office;

4. A party filing by fax shall—

A. Notify the board in advance, if possible, of its intention to file the document by fax;

B. Fax the document to the board's dedicated fax number;

C. Fax the document, if possible, to all other parties having electronic facsimile equipment. If unable to fax, a party shall notify all other parties of its intention to file the document by fax. The notice need not be in writing. A good faith attempt at compliance with this notice requirement shall satisfy the requirements of this subparagraph. This subparagraph does not apply to fax filing of the original appeal;

D. Send the original signed document to the board;

E. Certify in the documents—

(I) The method of notice used to fulfill the requirements of subparagraph (3)(A)4.C. of this rule; and

(II) Compliance with the requirements of subparagraph (3)(A)4.D. of this rule; and

F. Send a copy of the document to all other parties except when filing the original appeal;

5. Appellants may represent themselves and handle their own cases but shall have the right to be represented by duly licensed attorneys. A party to an appeal cannot be represented by anyone other than a duly licensed attorney except that the appointing authority may appear by an employee in the agency. If either party intends to employ and be represented by an attorney, that party promptly shall notify the Personnel Advisory Board of the name and address of his/her attorney;

6. *If either party to an appeal desires the issuance of a subpoena for any witness or records at any hearing, that party must apply for it sufficiently in advance of the hearing that the subpoena may be delivered to the requesting party by mail or by fax at least one (1) day before the hearing. The requesting party shall provide the name and address of any witness subpoenaed, a detailed description of any records to be subpoenaed and a statement of what is intended to be proved by the records. The Personnel Advisory Board issues the subpoena by request, but the service of the subpoena rests in the hands of the party requesting it. Service of the subpoena is to be effected in accordance with section 536.077, RSMo;] Either party may request a subpoena for a witness at a deposition or the hearing and a subpoena duces tecum (documents) for a deposition (related to the witness being deposed) or subpoena duces tecum for the hearing;*

A. A subpoena duces tecum must be requested sufficiently in advance so that it can be received from the board and served by the requesting party at least thirty (30) days in advance of the deposition or the hearing. Any subpoena duces tecum for the hearing requested and served more than sixty (60) days in advance of the hearing shall be due two (2) weeks prior to the hearing date and may be provided to the requesting party by mail rather than in person;

B. A subpoena for a witness to a deposition with no accompanying subpoena duces tecum must be requested sufficiently in advance and served upon the witness by the requesting party at least seven (7) days in advance of the deposition;

C. A subpoena for a witness to a hearing with no accompanying subpoena duces tecum must be requested sufficiently in advance and served upon the witness by the requesting party at least three (3) days in advance of the hearing.

D. The requesting party shall provide the name and address of any witness subpoenaed. The requesting party shall provide a detailed description of any records to be subpoenaed and a statement of what is intended to be proved by the records.

Service of the subpoena is to be effected in accordance with section 536.077, RSMo.

E. A party may contest a subpoena by filing a Motion To Quash Subpoena and shall set out the reasons why the subpoena should be quashed. If the subpoena that is the subject of the Motion To Quash Subpoena was served seven (7) days or less prior to the hearing, a pre-hearing conference with the hearings officer assigned to the case will be immediately scheduled by the board.

7. Upon the acceptance of an appeal, the appellant and appointing authority or their representatives may meet with the Personnel Advisory Board, at a time and place set by the board for a prehearing conference to determine the facts at issue. At the prehearing conference, both parties may stipulate on mutually agreed matters relevant to the disciplinary action or the appeal may be resolved by agreement of the parties. If, during the prehearing conference, the case is not resolved and the appeal goes forward to a hearing before the Personnel Advisory Board, the board may confine the hearing to the law and facts at issue as stipulated by mutual agreement of the parties to the appeal. All parties are required to provide the board with a current address and telephone number. If the appellant fails to provide the board with a current address and telephone number and cannot be reached to schedule a prehearing conference, or does not participate in the prehearing conference after receiving written notice of the date, time, and location of the prehearing conference, it shall be deemed that the appellant no longer wishes to proceed with the appeal and is withdrawing the appeal;

8. All motions or other pleadings by the parties shall be submitted in writing with a copy served or mailed to the opposing party. Parties to an appeal may amend their pleadings as a matter of course at any time before a responsive pleading is filed and served, or if the pleading is one to which no responsive pleading is required and the action has not been set for hearing, the party may so amend it at any time within thirty (30) days after it is filed. Otherwise, a party may amend a pleading only by leave of the Personnel Advisory Board or by written consent of the adverse party; and leave shall be given freely when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten (10) days after service of the amended pleading, whichever period may be the longer, unless the Personnel Advisory Board otherwise orders; and

9. Service of filings other than the original appeal:

A. Unless otherwise provided by these rules or by other law, any party to a proceeding before the board or any person who seeks to become a party shall serve upon all attorneys of record and unrepresented parties a copy of any document or item the party files;

B. Methods of service.

(1) A person may service a document on an attorney by:

(a) Delivering it to the attorney;

(b) Leaving it at the attorney's office with a secretary, clerk, or attorney associated with or employed by the attorney served;

(c) Mailing it to the attorney's last known address; or

(d) Facsimile transmitting (faxing) it to the attorney's last known fax number;

C. Any document or item filed shall contain or be accompanied by a certification of how and when the filing party has met the provisions of subparagraph (3)(A)9.A. of this rule; and

D. The requirements of this paragraph shall not apply to an original appeal.

(B) Hearings Procedure. The conduct of hearings before the Personnel Advisory Board is subject to the following provisions:

1. Hearings will be held in the Office of the Personnel Advisory Board in Jefferson City, Missouri, unless a different location is specified by action of the board;

2. If no prehearing conference has been held, the board will make a determination of what questions are at issue based upon the notice of the disciplinary action and the appellant's contentions in the

appeal prior to the taking of testimony. The hearing shall be confined to and come within the scope of law and facts that the board has determined to be at issue. The board may exclude evidence which is purely cumulative;

3. The person who imposed the discipline is to attend the hearing. If that person is not the appointing authority, it must be the subordinate to whom authority has been delegated. The person who imposed the discipline does not have to attend the hearing if:

A. The appellant has waived his or her attendance;

B. The parties agree to present his or her testimony by other means such as stipulation, affidavit, or testimony over the telephone or if either party wishes to present the testimony by deposition; or

C. He or she is unable to attend the hearing and the absence of his or her testimony would not unduly prejudice the appellant;

4. If the person who imposed the discipline is unavailable to provide his or her testimony for the hearing and the board determines that not having this testimony unduly prejudices the appellant, then the board may disapprove the appellant's discipline;

5. When the appointing authority is required to appear, he or she is not required to stay for the entire hearing. Rather, the appointing authority must only appear so that the appellant can ask him or her questions;

[5.]6. The person conducting the hearing will read a statement citing the appropriate sections of the merit system law applicable to appeals;

[6.]7. The person conducting the hearing will read the charges of the appointing authority and the contentions of the appellant. By agreement these documents may be inserted in the record without reading before commencing the taking of testimony;

[7.]8. All witnesses will be sworn or affirmed. When possible, witnesses will stand to be sworn or affirmed;

[8.]9. The Personnel Advisory Board, on request of either party or on its own motion, may order that the witnesses be separated so as to preclude any witness, other than the parties and their attorneys, from hearing the testimony of other witnesses. When requested by the appellant, only one (1) person in addition to counsel shall remain in the room to represent the appointing authority;

[9.]10. The appointing authority will be required to present his/her case first. Experience has shown this method gives the board a clearer and quicker picture of the issues. This is not a shift of the burden of proof, but is only the burden of going ahead with the proof;

[10.]11. The Personnel Advisory Board may take notice of its rules, the class specifications, official records of the Personnel Division, and the pay plan without the necessity of an offer in evidence;

[11.]12. The Personnel Advisory Board may fix the total time to be allowed for oral argument;

[12.]13. At the hearing, the entire proceedings will be [tape] recorded. After the board announces its findings of fact, conclusions of law, and decision and order, or at an earlier time if the board determines that the interest of efficient administration would be served, a copy of the recording[,] will be made available to either party. The board will not transcribe the [record from aural] recording to written form. The cost of a transcription will be borne by the requesting party. The transcription may be performed by any commercial business or agency selected by the requesting party. The board will forward directly to the selected business or agency a copy of the [aural] recording;

[13.]14. No rehearing, which includes any post-hearing motion other than a Nunc Pro Tunc, Request for Attorney's Fees, or Motion for Back Pay, shall be granted from a final decision of the Personnel Advisory Board. Should such a post-hearing motion be filed, it shall be deemed denied by the board and no ruling from the board is necessary; however, at any time prior to issuance of the decision, the board may require the production of additional documents and records, the presentation of additional testimony after prior notification to both parties, or both;

[14.]15. When the board issues an order dismissing an appeal or its findings of fact, conclusions of law, and decision, that order is a final decision on the merits and may be appealed as provided in Chapter 536, RSMo. A motion for attorney's fees, if any, is due to the board within thirty (30) days of its dismissing an appeal or its findings of fact, conclusions of law, and decision. The filing of a petition for judicial review or the fact that back pay has not been determined does not stay the thirty (30)-day requirement for filing the motion for attorney's fees with the board.

[15.]16. An appeal set for hearing may be continued by the Personnel Advisory Board for cause deemed sufficient or by consent of both parties to the appeal. However, a continuance will not be granted except for compelling cause or to serve the ends of justice. If an appellant requests and is granted a continuance, the Personnel Advisory Board, in its discretion, may deny the appellant any compensation for that portion of time lost by reason of the continuance made at the request if the appellant's appeal is finally sustained. If an appeal scheduled for hearing is not reached, it shall be reset and given precedence over any subsequent appeal;

[16.]17. The finding of the board will be announced in writing subsequent to the hearing. Parties will be notified by letter sent by certified mail. The finding will be made as provided in section 36.390(5), RSMo; and

[17.]18. As appropriate and where no specific rule governs the issue, the Personnel Advisory Board will utilize the rules of the civil procedure for guidance.

AUTHORITY: sections 36.060 and 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed August 15, 2008.

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 Director of Personnel, Office of Administration, PO Box 388, Jefferson City, MO 65102. To be considered comments must be received by the date of the public hearing. A public hearing is scheduled for 1:00 P.M., November 12, 2008, in Room 510 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 11—Large Animal Veterinary Student Loan Program

PROPOSED RULE

2 CSR 30-11.010 Large Animal Veterinary Student Loan Program

PURPOSE: This rule establishes the requirements for implementing the large animal veterinary student loan program.

(1) The following definitions shall be used in the interpretation and enforcement of this rule, in addition to those found in section 340.337, RSMo:

(A) Academic year means the period of time beginning with the start of the fall semester to the final day of the spring semester and any subsequent summer sessions;

(B) Advisory panel means individuals appointed by the director of the Missouri Department of Agriculture to advise the department regarding the rules, funding, and guidelines for implementing and administering the large animal student medicine loan;

(C) Application contract means the form provided by the Missouri Department of Agriculture for the purpose of applying for a large animal veterinary student loan;

(D) Area of defined need means a geographic area within Missouri with at least one (1) of the following characteristics and approved by the director or the director's designated agent:

1. Large animal populations/producers sufficient to potentially sustain/employ a large animal veterinarian;
2. Employment opportunity as a large animal veterinarian;
3. Veterinary population in region is diminishing;
4. Economics of area adequate to support veterinarian;
5. Presence of livestock markets; and
6. Requests from individual, groups, organizations, and communities;

(E) Educational loans means the financial assistance provided by the department under the authority of the large animal veterinary student loan program; commercial loans made by banks, credit unions, savings and loan associations, insurance companies, schools, and other financial institutions for veterinary education purposes; or loans made by federal, state, county, or city agencies authorized by law to make loans for veterinary education purposes;

(F) Eligible applicant means a veterinary student in the college or in the final full year as a full-time student in an undergraduate course of study eligible to apply to the college;

(G) Eligible student means a resident who has made application to be a full-time student or currently enrolled in the college;

(H) Loan contract means the form signed by a large animal veterinary student loan applicant and the director of the department or the director's authorized agent in which the applicant agrees to accept responsibility for repayment of educational loans through qualified employment or by cash;

(I) Placement form means the form provided by the department for the purpose of applying for participation in the large animal veterinary student loan program;

(J) Qualified applicant means a student matriculating in the college and in the professional program leading to a doctor of veterinary medicine degree;

(K) Reasonable educational costs means tuition, books, fees, supplies, equipment, and materials required by the college in which the loan program recipient is enrolled to obtain a doctorate of veterinary medicine; and

(L) Reasonable living expenses means the cost of room, board, transportation, and miscellaneous costs based on individual program costs.

(2) Recipients of large animal veterinary student loans shall verify to the department their enrollment, their program eligibility, their academic standing within thirty (30) days following the completion of each semester and summer session, and their expected program completion date.

(A) Applicant is responsible to provide information to the department.

(B) The advisory panel shall determine the consequences of the applicant's failure to comply with the requirement of subsection (2)(A).

(C) Interest on funds loaned by the large animal veterinary student loan program shall accrue at a rate determined by the advisory panel from the issue date of the department check.

(D) If a recipient of financial assistance ceases his/her study prior to the successful completion of the course of instruction required for graduation from the college, repayment of the principal and interest shall begin within ninety (90) days after the date the recipient ceases to be an eligible student, in accordance with the repayment contract. The department shall be notified by the loan recipient within

thirty (30) days of the date the recipient ceases to be an eligible student. Payment shall be completed no more than twelve (12) months from that date.

(3) Section 340.390, RSMo, provides that the department may grant a limited deferral of repayment of the principal and interest to a qualified student attending the college.

(A) The department may grant a limited deferral of the repayment of the principal and interest when the deferral would best serve the interest of the state and the large animal student veterinary loan program.

(B) The status of each deferral may be reviewed as often as necessary by the department, but the department shall review each deferral annually to insure compliance with the intent of the deferral. The length of deferral may not exceed four (4) years.

(C) Interest accrued during a deferral period by a financial assistance recipient shall be forgiven on the same basis as the original loan and interest.

(4) To qualify for a large animal veterinary student loan, the applicant shall have no conflicting service obligation that would prevent the state from benefitting from the applicant's services after graduation, with the exception of service in the National Guard or military reserve.

(5) Application contracts shall be completed, signed by the applicant, and submitted to the department between August 15 and September 15 or at another time directed by the department.

(A) Application contracts shall be accompanied by proof of Missouri residency, such as a copy of the Missouri individual income tax return for the previous year of the applicant or of the applicant's parents or legal guardian if applicant is listed as a legal dependant on the parent's or legal guardian's return.

(B) Applications shall include an essay which describes the applicant's professional ambition and how those professional goals fit with the intent of the large animal veterinary student loan program (eight hundred (800)-word maximum), three (3) reference letters, and complete set of transcripts from any college courses taken.

(C) Loan recipients shall apply annually.

(D) Only application contract forms for the large animal veterinary loan program supplied by the department will be accepted.

(E) Upon approval for funding, the loan contract shall be signed by the department director or the director's authorized agent and shall become the agreement of the applicant to accept responsibility for repayment either by cash or by service in an area of defined need.

(F) A copy of an applicant's financial aid award notice from the college and of the applicant's notice of acceptance by the college shall be on file in the department prior to funding by the large animal veterinary loan program.

(6) Selection criteria for the large animal veterinary student loan program are—

(A) Eligibility of the applicant;

(B) Demonstrated financial need;

(C) Qualification and potential based upon submitted materials;

(D) Willingness to serve in designated area of need; and

(E) Information presented at a personal interview if one is requested of the applicant by the committee.

(7) Subject to availability of federal, state, or community funds for the large animal veterinary student loan program, the department shall enter into a maximum four (4)-year contract with each individual qualifying for repayment of educational loans.

(8) Participants who default on their written loan contracts shall be subject to monetary repayment of the contracted amount and interest. Cash repayment periods may be authorized up to a maximum of twelve (12) consecutive months.

(A) The department may grant a deferral of payment of the loan amount and interest at the discretion of the director on the basis of hardship such as critical illness of participant or an immediate family member, death in the immediate family, or severe handicapping condition of the participant when that hardship has been adequately documented such as statement of the attending physician, death certificate, or Social Security disability determination.

(B) The status of each deferral may be reviewed as often as necessary by the department but shall be reviewed annually to insure compliance with the intent of the deferral.

(C) Once a loan participant has begun qualified employment, repayment of the loan shall continue, even if the designation of the area of defined need of qualified employment changes, as long as the loan participant does not terminate employment.

(D) If circumstances beyond the control of a loan participant result in the termination of qualified employment, deferral status may be granted for a period up to ninety (90) days to allow the participant to gain employment in an area of defined need, upon approval by the director or the director's designated agent.

(E) Upon authorization of the director or authorized agent, forgiveness of interest and principal for a financial assistance recipient engaged in qualified employment on a less than full-time basis may be granted on a prorated basis.

(9) A graduate of the student loan program must—

(A) Complete the Large Animal Veterinary Student Loan Program Placement Form prior to May 1 of the current year; and

(B) Notify the department of any change of address or employment within thirty (30) days.

(10) Members of the advisory panel shall serve for three (3) years from the date of appointment by the director and may be reappointed for consecutive three (3)-year terms. Resignations from the panel may be accepted by the director at any time. Appointments to fill vacated panel positions shall be for three (3) years. Nonattendance by a panel member at two (2) consecutive scheduled panel meetings shall constitute a resignation from the panel unless a written explanation of the absences with a written request to continue service on the panel is received by the director within thirty (30) days after the second absence of a panel member from a scheduled panel meeting. Nonattendance at more than four (4) scheduled panel meetings in any two (2) consecutive years may constitute, at the discretion of the director, a resignation from the panel.

AUTHORITY: sections 340.335–340.405, RSMo Supp. 2007. Emergency rule filed July 14, 2008, effective July 24, 2008, expires Feb. 26, 2009. Original rule filed Aug. 15, 2008.

PUBLIC COST: This proposed rule will result in an aggregate public cost of \$2,130,010.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Taylor H. Woods, D.V.M., Acting State Veterinarian, PO Box 630, Jefferson City, MO 65102, by facsimile at (573) 751-6919, or via email at Taylor.Woods@mda.mo.gov. Comments must be received within thirty (30) days after the publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Agriculture**
- Division Title: Animal Health**
- Chapter Title: Veterinarians**

Rule Number and Name:	2 CSR 30-11.010 Large Animal Veterinary Student Loan Program
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
MO Department of Agriculture (MDA)	\$2,130,010 over five (5) years

III. WORKSHEET

\$138,002 and 0.25 FTE in the first year and \$498,002 and 0.25 FTE for the succeeding four (4) years for a fiscal and administrative manager, related expenses, and student loan funding for six large animal veterinary students in order to ensure implementation, compliance, and consistency with sections 340.375 to 340.396 RSMo.

Year 1

\$120,000 (\$20,000 student loan * 6 students)
\$ 18,002 (administration costs)

\$138,002 Year 1 Costs

Years 2-5

\$480,000 (\$80,000 student loan * 6 students)
\$ 18,002 (administration costs)

\$498,002 Years 2 - 5 Costs

Total Cost = 138,002 + 4(498,002) = \$2,130,010

IV. ASSUMPTIONS

1). MDA is required to implement and administer the Large Animal Veterinary Student Loan Program established under sections 340.375 to 340.396 RSMo. These sections require the department work with an Advisory Panel to coordinate the development of regulations and standards that guide the program, develop and administer contract agreements with the holder of loans, and monitor loan payments, repayments, and any breeches of contract that may occur.

2). The legislature appropriated \$138,002 to initiate this program in Fiscal Year 2009. However, the legislation allows for up to \$480,000 in veterinary student loans to be awarded each fiscal year. Therefore, this fiscal note assumes that the full \$480,000 will be appropriated for student loans in each of the succeeding four (4) fiscal years until the statute expires on June 30, 2013.

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

PROPOSED AMENDMENT

8 CSR 10-3.010 Registration and Claims in General. The division is deleting section (7) and renumbering the remaining sections.

PURPOSE: This amendment revises the time limit for filing claims and implements section 288.040, RSMo, as truly agreed and finally passed during the 2nd Regular Session of the 94th General Assembly and signed by the governor in House Bill 2041.

[(7)] In order to claim waiting week credit or benefits for a week the claimant must file an otherwise valid claim within twenty-eight (28) calendar days after the end of the week being claimed. The twenty-eight (28) calendar day period may be extended for good cause. If good cause is not found, the claimant's claim for that week shall not constitute a valid claim for benefits under section 288.040, RSMo.]

[(8)](7) If, during a benefit year, a claimant does not file a claim for benefits, within twenty-eight (28) calendar days after the end of the last week claimed (or the end of the last week in which an initial, renewed, or reopened claim was filed), the claimant must file a renewed claim if the claimant has had intervening employment or a reopened claim if the claimant has not. The twenty-eight (28) calendar-day period may be extended for good cause. If good cause is not found, the claimant's claims for benefits for the period from the most recent week claimed (prior to the renewing/reopening of the claim) through the week ending just prior to the renewing or reopening of the claim shall not constitute valid claims for benefits under section 288.040, RSMo.

[(9)](8) A benefit week under this rule begins on Sunday and ends on Saturday, except that a claimant who has been filing claims under 8 CSR 10-3.040 shall use the same type of weekly period for further claims in the same series.

[(10)](9) A week of unemployment beginning in a benefit year shall be treated as having occurred wholly in that benefit year.

[(11)](10) A claimant must report to an employment office as defined under section 288.030(16), RSMo, unless the claimant is ill or employed, or for good cause shown.

[(12)](11) A claimant shall be held ineligible to receive benefits if the claimant fails to comply with this regulation and will remain ineligible until the noncompliance has ceased.

[(13)](12) For the purpose of 8 CSR 10-3, good cause shall be only those circumstances which are beyond the reasonable control of the claimant and then only if the claimant acts as soon as practical.

AUTHORITY: section[s] 288.040, as truly agreed and finally passed during the 2nd Regular Session of the 94th General Assembly and signed by the governor in House Bill 2041 and sections 288.070 and 288.220.5, RSMo 2000. Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 15, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Employment Security, Attn: Spencer Clark, Acting Director, PO Box 59, Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS**
Division 30—Division of Labor Standards
**Chapter 4—Minimum Wage and
Overtime Rules**

PROPOSED RESCISSION

8 CSR 30-4.010 Definitions. This rule set forth certain definitions of terms used in this chapter.

PURPOSE: This rule is being rescinded and being replaced with a new proposed rule regarding applicability and definitions.

AUTHORITY: sections 290.512, 290.515, and 290.517, RSMo 2000. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 8, 2003, effective April 30, 2004. Rescinded: Filed Aug. 15, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Labor Standards, Attn: Paul Buckley, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS**
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules

PROPOSED RULE

8 CSR 30-4.010 Applicability and Definitions

PURPOSE: This rule sets forth the applicability of the Missouri Minimum Wage Law and certain definitions of terms used in this chapter.

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

(1) Applicability—Except as provided in sections 290.500 to 290.530, RSMo, and any rules promulgated thereunder, the department, in interpreting and enforcing the Missouri Minimum Wage Law, will follow the written regulations established by the United States Department of Labor pertaining to the Fair Labor Standards Act, which are incorporated by reference. This rule incorporates the regulations published in the Federal Register, 29 CFR Chapter V, as last amended on December 16, 2004, and does not include any subsequent amendments or additions. A copy of the regulations is available at the United States Department of Labor, Frances Perkins Building, 200 Constitution Ave. NW, Washington, DC 20210, or at the Division of Labor Standards, 3315 W. Truman Blvd., Jefferson City, MO 65109.

(2) As used in 8 CSR 30-4.010-8 CSR 30-4.060, unless the context clearly indicates otherwise, the following terms shall mean:

(A) Complainant—an individual filing an administrative complaint with the director under the Missouri Minimum Wage Law; and

(B) Tipped employee—any employee who regularly and customarily receives and retains compensation in the form of gratuities in addition to wages.

AUTHORITY: sections 290.512, 290.515, and 290.517, RSMo Supp. 2007 and section 290.523, RSMo, as truly agreed and finally passed during the 2nd Regular Session of the 94th General Assembly and signed by the governor in House Bills 1883 and 2041. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 8, 2003, effective April 30, 2004. Rescinded and readopted: Filed Aug. 15, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Labor Standards, Attn: Paul Buckley, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules**

PROPOSED RESCISSION

8 CSR 30-4.020 Minimum and Subminimum Wage Rates. This rule established the minimum wage rates to be paid to certain qualifying employees and described generally the allowance of gratuities as a credit toward payment of the minimum wage.

PURPOSE: This rule is being rescinded and being replaced with a new proposed rule regarding minimum wage rates.

AUTHORITY: sections 290.512, 290.515, and 290.517, RSMo 2000. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 8, 2003, effective April 30, 2004. Rescinded: Filed Aug. 15, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Labor Standards, Attn: Paul Buckley, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules**

PROPOSED RULE

8 CSR 30-4.020 Minimum Wage Rates

PURPOSE: This rule describes the minimum wage rates to be paid to certain qualifying employees, describes generally the allowance of gratuities as a credit toward payment of the minimum wage, and describes how a workweek is calculated.

(1) Tipped employees shall receive at least the applicable minimum wages as set forth in this rule, except that the employer may claim gratuities as a credit toward the payment of the required minimum wage. The maximum amount of gratuities that the employer can claim as a credit is fifty percent (50%) of the applicable minimum wage rate. In no event shall the amount of wages and gratuities equal less than the applicable minimum wage, with the difference between the gratuities and the minimum wage being paid by the employer.

(2) Subject to the requirements of sections 290.500 to 290.530, RSMo, at least the minimum wage shall be paid for all hours worked, regardless of the frequency of payment and regardless of whether the wage is paid on an hourly, salaried, commissioned, or any other basis. If, in any workweek, the total wages earned by an employee is less than the applicable minimum wage rate for the total hours worked, the employer shall pay the difference between the total wages earned and the amount required to equal the minimum wage for the total hours worked in the workweek as required under the minimum wage law.

(3) The workweek is the seven (7)-day period that is the basis for determining an employee's hourly earnings. Once established, an employer shall not change or manipulate an employee's workweek to evade the requirements of the Missouri Minimum Wage Law.

(4) Hourly wages, tips, gratuities, and commissions shall be counted in the workweek in which the hourly wage, tip, gratuity, or commission is earned to determine if an employee earned at least the minimum wage rate.

AUTHORITY: sections 290.512 and 290.515, RSMo Supp. 2007 and section 290.523, RSMo, as truly agreed and finally passed during the 2nd Regular Session of the 94th General Assembly and signed by the governor in House Bills 1883 and 2041. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 8, 2003, effective April 30, 2004. Rescinded and readopted: Filed Aug. 15, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Labor Standards, Attn: Paul Buckley, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules**

PROPOSED RESCISSION

8 CSR 30-4.030 Training Wage for Learners and Apprentices. This rule provided for the establishment of a training wage for learners and apprentices.

PURPOSE: This rule is being rescinded and the procedure for requesting a public hearing and the subsequent establishment of a learner and apprentice training wage is being provided in proposed rule 8 CSR 30-4.060.

AUTHORITY: sections 290.512, 290.515, and 290.517, RSMo Supp. 1994. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed March 27, 2000, effective Oct. 30, 2000. Rescinded: Filed Aug. 15, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Labor Standards, Attn: Paul Buckley, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules**

PROPOSED AMENDMENT

8 CSR 30-4.040 Subminimum Wage Rates for the Physically or Mentally Impaired. The division is amending sections (1) and (2).

PURPOSE: This amendment implements the Missouri Minimum Wage Law as revised in Proposition B, November 7, 2006, and effective January 1, 2007, and as in accordance with section 290.515, RSMo.

(1) [The director is empowered, after a public hearing, to provide by rule for the employment in any occupation of individuals whose earning capacity is impaired by a physical or mental disability.] The director may provide for employment at a subminimum wage rate [that] if it is deemed necessary to prevent curtailment of opportunities for employment of the physically or mentally impaired.

(2) A public hearing for the purpose of establishing a subminimum wage rate for any occupation may be held by the director on his/her own motion, or at the request of an interested [employer, employee, employer or employee association, service organization, public agency or other interested business or service group] person.

AUTHORITY: section[s 290.512,] 290.515[, and 290.517], RSMo Supp. [1990] 2007 and section 290.523, RSMo, as truly agreed and finally passed during the 2nd Regular Session of the 94th General Assembly and signed by the governor in House Bills 1883 and 2041. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed Aug. 15, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards, Attn: Paul Buckley, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules**

PROPOSED RULE

8 CSR 30-4.060 Administrative Complaints; Notices Issued by the Director

PURPOSE: This rule establishes requirements for the filing of administrative minimum wage complaints.

(1) An individual who believes that he or she has not been paid the required minimum wage may file a complaint on a form prescribed by the department. The department will not accept anonymous or third-party complaints. A complaint form can be obtained by accessing the department's website at www.dolir.mo.gov or by contacting the Division of Labor Standards by phone at (573) 751-3403.

(2) The department shall have authority to investigate and ascertain the wages of persons employed in any occupation included within the meaning of sections 290.500 to 290.530, RSMo. Employees that are not covered and not required to be paid the minimum wage rate are listed in section 290.500(3), RSMo.

(3) A complainant shall provide and keep the department advised of the complainant's current mailing address and telephone number.

(4) An employer under investigation shall provide the department with a copy of the first page of its most recent income and sales tax returns to determine the applicability of the minimum wage law. The employer shall also keep the department advised of the employer's current mailing address and telephone number.

(5) Upon completion of the department's investigation, the parties shall be notified of the department's findings.

(6) Any employer wishing to establish a training rate for learners and apprentices as permitted by section 290.517, RSMo, shall provide a written request to the director stating the classification of workers it desires to be designated as learners or apprentices. Upon such notice and in the discretion of the director, a hearing will be held consistent with section 290.517, RSMo.

AUTHORITY: section 290.517, RSMo Supp. 2007 and section 290.523, RSMo, as truly agreed and finally passed during the 2nd Regular Session of the 94th General Assembly and signed by the governor in House Bills 1883 and 2041. Original rule filed Aug. 15, 2008.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Labor Standards, Attn: Paul Buckley, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 50—Division of Workers' Compensation
Chapter 3—Self-Insurance

PROPOSED AMENDMENT

8 CSR 50-3.010 Rules Governing Self-Insurance. The division amends sections (1), (2), (3), and (5) through (8).

PURPOSE: In order to conform with statutory changes to sections 287.280.2 and 287.280.3, RSMo, and to further insure solvency of self-insured trusts, this amendment defines additional terms, provides the self-insured employee and group/trust an additional method of posting security with the Division of Workers' Compensation in the form of an irrevocable letter of credit, and clarifies deficit and surplus requirements.

(1) Definitions.

(A) For the purposes of this rule, the following terms shall mean:

1. Association—An organization of persons, businesses, firms, or corporations joined together for a certain or common purpose;
2. Estimated annual premium—The premium collected from a trust member that is computed by applying the appropriate payroll code classification rates to the trust member's annual payroll and multiplying the results by the experience modification factors of the trust member as developed by the advisory organization approved by the Department of Insurance, **Financial Institutions and Professional Registration** and including any other discounts and *[surcharges]* debits;
3. Executive director—Person designated by the board of trustees of that trust to oversee all operations of the trust and who is not an owner or employee of any service company;
4. Foreign corporation—A corporation for profit organized under laws other than the laws of this state;
5. Group—Not less than ten (10) private employers not commonly owned or ten (10) governmental entities of the same type;
6. Pure premium rate—That portion of the rate which represents the loss cost per unit of exposure including loss allocated and unallocated adjustment expenses;

7. Rate—The cost of insurance per exposure base unit, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premiums;

8. Regular member—Those persons, businesses, firms, or corporations which meet all eligibility requirements and are approved for full membership into an association and which are also accorded all voting and membership privileges of the association;

9. Same industry—A group with employer members of a similar nature, in the same line of business, and using the same class codes pursuant to the uniform classification system filed by the advisory organization with the director of the Department of Insurance, **Financial Institutions and Professional Registration** in compliance with section 287.955, RSMo;

10. Security—A surety bond, an **irrevocable letter of credit**, or escrow deposit to assure the fulfillment of payment or performance of any workers' compensation liability or obligation of an employer;

11. Service company—Any person, business, firm, or corporation that provides insurance or other workers' compensation administrative services, which includes, but is not limited to, plan administrators, claims administrators, loss control consultants, brokers, and agents;

12. Surplus or surplus monies—*[The excess of total premium paid by trust members plus investment income over losses paid, administrative expenses, actuarially substantiated outstanding reserves, actuarially developed incurred but not reported losses, and previously paid surplus distributions; and]* The amount by which the sum of total premium paid by trust members and investment income exceeds the sum of—

- A. Losses and loss adjustment expenses paid;
- B. Administrative expenses incurred;
- C. Outstanding reserves for known injuries and occupational diseases;
- D. Actuarially developed reserves for case reserve development and the cost of incurred but not reported injuries and occupational diseases; and
- E. Previously paid surplus distributions; and

13. Trust—A combination of persons, businesses, firms, or corporations bound together to secure, jointly and severally, workers' compensation liability by holding the individual interests of each subservient to a common authority for the common interests of all. This shall also include the written instrument that creates the trust.

(2) Individual Employer Self-Insurance—Application. An employer seeking exemption from insuring his/her risk under the Workers' Compensation Act, by obtaining the privilege of becoming an individual self-insurer, shall apply on the specified form titled Application for Self-Insurance, **WC-81, included herein**. The initial application is to be presented at the office of the Division of Workers' Compensation in Jefferson City, Missouri, by a representative of the employer and service company, if applicable. Each *[corporation or]* legal entity desiring to self-insure shall submit a separate application. Such application shall be sworn and executed by an executive officer of the applicant.

(3) Individual Self-Insurance—Additional Requirements.

(A) In addition to the application, compliance with all of the following shall be required:

1. Balance sheets and income statements for the last four (4) years; the balance sheets and income statements must be provided for each entity seeking self-insurance;
2. A statement or report setting forth the total of workers' compensation benefits paid to date and current case reserves (including medical) for a minimum of the last three (3) claim years;
3. A statement or report reflecting the current experience modification factor calculated pursuant to the Uniform Experience Modification Plan as approved by the Missouri Department of Insurance, **Financial Institutions and Professional Registration**;

4. A description of the administrative organization to be maintained by the employer or service company to handle workers' compensation matters, including the reporting of injuries, authorization of medical care, providing payment of compensation, handling of claims for compensation, and the safety program, together with the name and location of each such office and qualifications of the personnel in such office to perform such services. If a service company provides loss control services it must be certified by the division. If a service company provides claims administration services it must be licensed through the Missouri Department of Insurance, **Financial Institutions and Professional Registration**. Designation of a service company to administer workers' compensation claims, who is licensed by the Missouri Department of Insurance, **Financial Institutions and Professional Registration**, with a copy of the signed service agreement, which shall include a commitment to handle claims to their conclusion. In the event an employer wishes to change claims service companies, the employer may elect to contractually have the current service company continue to handle existing claims to their conclusion or it may elect to transfer that responsibility in an orderly fashion to the new service company. Any partner, member of a limited liability corporation, or officer or director of any corporation or an immediate family member of such person shall not be an owner or employee of the service company;

5. All applicants, whether a corporation or other legal entity, both foreign and domestic, shall file with the application the appropriate Certificate of Good Standing, or its equivalent, regarding that particular entity as issued by its respective state in which organized, along with a certified copy of the applicant's authority to do business in Missouri as issued by the Missouri Secretary of State and copies of all relevant corporate resolutions;

6. A chart of the organizational structure of the company, including any parent, subsidiary or related entities; and

7. Other information including any supporting documentation as requested by the division. In accordance with the provisions of section 287.660.2, RSMo, the division shall fix and collect from the employer the reasonable expenses of any investigation necessary to determine its ability to carry its own insurance; therefore, each application for authority to become a self-insurer shall be accompanied by a remittance in the amount of two hundred fifty dollars (\$250), payable to the Division of Workers' Compensation, to cover the costs of such investigation and the applicant shall be charged when the investigation costs are in excess of two hundred fifty dollars (\$250). This fee will not be refunded, regardless of the disposition of the application.

(B) The division shall make a preliminary determination based on the factors set out in paragraph (3)(I)1. to approve or deny the application and shall notify the applicant. Upon preliminary approval of the application, the employer shall comply with the following:

1. Provide security in the minimum amount of two hundred thousand dollars (\$200,000) and the division may, if it deems advisable in any particular case, require a larger amount. Security will be furnished in one (1) of ~~two (2)~~ **three (3)** ways: by filing with the Division of Workers' Compensation an approved surety bond; **by an irrevocable letter of credit**; or by depositing in escrow approved securities as defined in this section. In exceptional instances the division may require additional security deposits equal to actuarially determined incurred losses.

A. If a surety bond is given, the surety shall be by a company admitted by the Missouri Department of Insurance, **Financial Institutions and Professional Registration** to transact such business in this state and shall be AM Best rated A- or better or shall have reserves acceptable to the department for a new and unrated company. The bond shall be on a form prescribed by the Division of Workers' Compensation **included herein (Bond of Employer Carrying His Own Risk, WC-82 Bond)**. Any such bond shall be perpetual and shall not be released by the division unless additional replacement security approved by the division is provided. In the case of insolvency, the proceeds of the surety bond shall be trans-

ferred to Missouri Private Sector Individual Self-Insurers Guaranty Corporation, if applicable, in anticipation of payment for compensation obligations which the employer has not paid; but no funds shall be used to make payments of compensation until the division has given the employer and surety company thirty (30) days' written notice.

B. If the securities are deposited in escrow, they shall be in the form of United States Government Obligations, which are limited to treasury bills, notes, or bonds. Securities deposited in escrow or trust shall be deposited only in a bank or trust company in the state of Missouri. When securities are deposited as provided above, the employer shall file with the division an agreement on a form approved by the division **included herein (Escrow Agreement, Form 82 Escrow)**, providing that upon failure or neglect of the employer to make payment of compensation all, or any part of such securities, as the occasion may require, may be sold. The proceeds of this sale shall be transferred to Missouri Private Sector Individual Self-Insurers Guaranty Corporation, if applicable, in anticipation of payment for compensation obligations which the employer has not paid; but no securities shall be sold or funds shall be used to make payments of compensation until the division has given the employer and bank or trust company thirty (30) days' written notice.

C. **An irrevocable letter of credit (hereafter letter of credit) must meet those requirements found in section 400.5-101, RSMo et seq., as well as those additional requirements found below. The letter of credit, along with an authorization for release of confidential information, must be submitted to the division on division-approved forms included herein (Irrevocable Letter of Credit, WC-249; Authorization For Release of Confidential Information, WC-249-3). The letter of credit must include the following provisions:**

(I) A letter of credit, issued by a commercial bank chartered under the laws of Missouri or chartered pursuant to the National Banking Act, may be submitted to the Missouri Department of Labor and Industrial Relations, Division of Workers' Compensation (hereinafter the division). The letter of credit must be in an amount equal to the otherwise required bond or securities;

(II) The letter of credit shall be irrevocable, and the beneficiary shall be the division. Payment shall be made immediately upon presentment of a demand for payment signed by the director of the division or his/her designated representative;

(III) All letters of credit shall conform to a required format. A standard letter of credit form embodying this format shall be provided by the division and is included herein (Irrevocable Letter of Credit, WC-249). All letters of credit shall be accompanied by an authorization for release of confidential information allowing the director of the division or his/her designee to release confidential information to the issuing bank;

(IV) A demand for payment upon a letter of credit may be presented for payment only upon reasons that bond proceeds would be demanded;

(V) All letters of credit must be negotiable at a financial institution located within Missouri;

(VI) Letters of credit shall have a term of one (1) year and shall be automatically renewable on an annual basis for an additional five (5) years. A letter of credit may be canceled by the issuer sixty (60) days after written notice is delivered to the division. Upon this notice the applicant shall be required to substitute a surety bond within sixty (60) days. If the required bond is not received within that time period, the self insurance privilege shall immediately terminate without notice;

(VII) The division shall not release the letter of credit until it is satisfied, either by audit or otherwise, that no claims exist against the letter; and

(VIII) An applicant shall be required to augment letters of credit in any situation where the applicant would be required to increase its coverage under a surety bond. This additional

bonding requirement may be satisfied by increasing the letter of credit, submitting an additional letter of credit, submitting an additional surety bond, or depositing additional securities. Failure to increase the letter of credit amount when required will result in the immediate termination of the self insurance privilege without notice.

[C./D. After an employer has secured his/her liability by any one (1) of the methods provided by these rules and desires to substitute one (1) form of security for the other, substitution may be done with prior approval of the division thirty (30) days before the effective date;

2. All subsidiary corporations or other subsidiary legal entities shall have the parent corporation or other legal entity guarantee its liability for payment of benefits under Chapter 287, RSMo, and shall file such guarantee with the division along with a resolution of the parent entity authorizing such guarantee. The parent corporation or other legal entity must be in business for at least four (4) years. The form and substance of such guarantees shall be approved by the division **as included herein (Guaranty To Satisfy Compensation Claims Under Workers' Compensation Law of Missouri, WC-82A)**;

3. Provide confirmation of specific excess insurance or aggregate excess insurance, or both types of insurance, issued by an insurance carrier admitted by the Department of Insurance, **Financial Institutions and Professional Registration** to do business in this state with specified policy limits and retention amounts approved by the division. The insurance carrier shall be AM Best rated A- or better or shall have reserves acceptable to the department for a new and unrated company. The terms and conditions of the insurance contract shall be applicable only to Missouri. This coverage cannot be canceled or nonrenewed unless written notice by certified mail is given to the other party to the policy and to the division not less than sixty (60) days before termination by the party desiring to cancel or not renew the policy; and

4. In accordance with section 287.860, RSMo, each applicant seeking to become a self-insurer, other than self-insured trusts, or individual public sector self-insurers, as defined in section 287.280 or 537.620, RSMo shall become and remain members of the Missouri Private Sector Individuals Self-Insurers Guaranty Corporation.

(5) Trust Self-Insurers—Additional Requirements.

(A) The application **on division-approved form included herein (Application for Group Self Insurance, WC-81A)**, as submitted by the board of trustees of the self-insurers' trust, shall be accompanied by all of the following:

1. A copy of the bylaws and trust agreement of the proposed group self-insurers' trust which shall be approved by the division. The trust agreement shall include an indemnity clause which jointly and severally binds the group and each member thereof for payment of benefits to employees of members of the group and all other liability pursuant to Chapter 287, RSMo. A copy of the bylaws of the association or organization, if applicable, shall also be submitted. If there is a conflict between these bylaws or trust agreement and any rule or statute, such statute or rule shall supersede the bylaws or trust agreement;

2. An individual application of each member of the group applying for coverage in the trust **on division-approved form included herein (Application for Membership In The, WC-81B)**, including acceptance or execution of the trust agreement, current financial statements, experience modification worksheet from the uniform experience modification plan of the advisory organization, premium worksheet, and three (3) years prior loss runs for all members. The loss runs shall be filed separately and combined;

3. A current financial statement of each member of a self-insurers' group which taken collectively depicts the combined net worth of all members applying for coverage on the inception date of the

trust which shall not be less than five (5) million dollars *[((\$1,000,000)]*;

4. A composite listing of the estimated annual premium to be developed by each member of the group individually and in total as a group. The trustees shall provide proof, satisfactory to the division, that the total estimated annual premium of the trust will be at least one (1) million dollars *[((\$1,000,000)]*;

5. Proof of payment by each member of not less than twenty-five percent (25%) of the estimated annual premium into a designated depository in the state of Missouri at inception, with the remainder paid in equal monthly or quarterly payments during the premium year, however, a member may make premium payments in advance of this schedule;

6. A nonrefundable filing fee in the amount of five hundred dollars (\$500) payable to the Division of Workers' Compensation;

7. Designation of the board of trustees and executive director of the trust. The executive director may be the chairman of the board of the trust or another person, so long as the designee meets the requirements of paragraph (1)(A)3.;

8. *[A breakdown of all projected administrative expenses for the trust year in an amount and as a percentage of the estimated annual premium. Expenses shall not exceed thirty percent (30%) of actual premium collected]* **A budget showing all expected income and expenses on an accrual basis for the trusts' first year;**

9. Proof shall be provided to demonstrate that, within its own organization, the trust has ample facilities and competent personnel to service its own program with respect to underwriting matters and safety/loss control services or shall contract with an approved service company to provide these services. A service company shall have personnel or a safety/loss control service program certified by the division's Missouri Workers' Safety Program. Underwriting guidelines and the safety/loss control service program shall be submitted to the division; and

10. Other relevant information including any supporting documentation as requested by the division.

(B) The division shall make a preliminary determination based on the factors set out in paragraph (3)(I)1. to approve or deny the application and shall notify the applicant. Upon preliminary approval of the application, the trust shall comply with the following:

1. Security shall be furnished in the amount set by the division, which may be changed if it is deemed advisable. The security will be provided in accordance with paragraph (3)(B)1. of this rule except the minimum amount is set at five hundred thousand dollars (\$500,000). Any trust in existence on the effective date of this rule shall comply with this requirement by December 31, 1997. Any collateralization of security shall be provided by the members of the trust or governing association or organization, if applicable, and shall not encumber the assets of the trust;

2. Provide confirmation of specific and aggregate excess insurance in a form and amount approved by the division and issued by a company admitted by the Department of Insurance, **Financial Institutions and Professional Registration** to transact business in this state or a substitute arrangement approved by the division. The insurance carrier shall be AM Best rated A- or better or shall have reserves acceptable to the department of a new and unrated company. The terms and conditions of the insurance contract shall be applicable only to Missouri. This coverage cannot be canceled or nonrenewed unless written notice by certified mail is given to the other party to the policy and to the division not less than sixty (60) days before termination by the party desiring to cancel or not renew the policy; and

3. Provide proof of a fidelity bond or employee dishonesty policy of not less than one (1) million dollars *[((\$1,000,000)]* for trustees and service companies, as well as proof of an errors and omissions policy or professional liability policy for the service companies, and directors and officers liability policy for trustees of the plan in a form and an amount acceptable to the division.

(D) Any trust that is finally approved under the provisions of subsection (5)(C), or has been approved prior to the effective date of this rule, shall also be required to remain in compliance with the provisions of paragraphs (5)(A)1. and 6.–10., the provision of subsections (5)(E) and (5)(F), and the provisions of sections (6)–(9) of this rule during the continued existence of the trust.

1. Any trust that is finally approved under the provision of subsection (5)(C), or has been approved prior to the effective date of this rule, shall also be required to maintain a minimum annual audited collected premium of at least one (1) million dollars [(\$1,000,000)], except as set out in paragraph (5)(D)2.

2. Any trust approved prior to the effective date of this rule that does not have a minimum annual audited collected premium of at least one (1) million dollars [(\$1,000,000)] on the effective date of the rule shall not be required to comply with the provisions of paragraph (5)(D)1. Any such trust shall be required to maintain a minimum estimated annual premium level not less than ninety-five percent (95%) of the amount of that trust's annual audited collected premium as of July 1, 1997. Any such trust shall maintain a surplus to annual audited collected premium ratio of at least twenty-five percent (25%). This ratio shall be determined annually beginning July 1, 1997, based on the trust's most recent audited financial reports. The trust may elect to comply with the provisions of paragraph (5)(D)1. by July 1, 1997, in lieu of the requirements of this paragraph.

(E) The trust shall have authority to admit and terminate members subject to the following:

1. After the inception date of the trust, prospective new members of the trust shall submit an application for membership to the board of trustees, on a form approved by the division **included here-in (Application For Membership In The, WC-81B)**. If approved by the trustees, the trust may immediately bind the new member. The application for membership with all documents required by paragraph (5)(A)2. and proof of compliance with subsection (5)(A), shall within fifteen (15) days of the effective date of the application, be filed with the division for approval or denial. The division shall approve or deny the application, and notify the trust, within twenty (20) days of receipt of the application; and

2. Individual members of a group shall be subject to cancellation by the division for failure to comply with any of these rules, or by the trust pursuant to the bylaws of the trust. Additionally, individual members of the trust may elect to terminate their participation in the trust subject to the provisions of their respective trust agreement or bylaws. However, such termination or cancellation shall not be effective for thirty (30) days, or such longer period as may be provided for in the trust agreement, after all parties have been notified of the termination or cancellation.

(6) Trust Self-Insurers—Reports.

(A) Reports as to financial standing, excess coverage, coded workers' compensation payroll records, accident experience, premium collections, and compensation payments[,] shall be made by each trust at the times and manner, and upon such forms as the division may require, as follows:

1. A statement of financial condition of the trust audited by an independent certified public accountant shall be filed annually with the division and within one hundred [twenty (20)] **fifty (150)** days after the end of the trust's fiscal year. The division may grant additional time to file upon application of the trust for good cause shown. The financial statement, not limited to actuarially appropriate reserves, shall include as liabilities: all known claims and expenses associated therewith; all claims incurred but not reported and expenses associated therewith; all unearned premiums; and all bad debts. The division reserves the right to prescribe the type of audits to be made and a uniform accounting system to be used by self-insurers' trusts and service companies to determine the solvency of the group self-insurers' trust;

2. An annual actuarial study regarding reserves for all known claims and expenses associated therewith, and claims incurred but not reported and expenses associated therewith, which shall be included in the actuarial study. The study shall be given by a member in good standing of the American Academy of Actuaries or of the Casualty Actuarial Society **who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries** and shall have experience in Missouri workers' compensation. The opinion shall be issued with a Statement of Actuarial Opinion as to the adequacy of the losses, loss adjustment expenses, and rates contained in the study;

3. Annually, or for a shorter term which must be approved by the division all rates utilized by the trust for each term must be filed. The rates must be accompanied by a report of estimated annual premium and projected expenses. Projected expenses should include estimated administrative expenses and estimated workers' compensation liabilities. The statement of estimated workers' compensation liabilities shall be actuarially developed and may be combined with the opinion required in paragraph (6)(A)2. Estimated annual premiums shall exceed projected expenses. Upon acceptance of the filed rates by the division, the accepted rate shall remain constant for the full term. The rates may be calculated as follows:

A. Rates actuarially developed on the trust's own experience; or

B. From the pure premiums rates developed and published by the advisory organization or the Department of Insurance, **Financial Institutions and Professional Registration**; or

C. From the rates calculated by the Department of Insurance, **Financial Institutions and Professional Registration** based on rates filed by the twenty (20) insurance companies providing the greatest volume of workers' compensation insurance coverage;

4. A quarterly claim activity summary report listing paid and reserved indemnity, medical and claims expenses for each trust year. A trust year is considered open as long as one (1) claim for that trust year remains unsettled;

5. A copy of the minutes of all trustee meetings shall be submitted within thirty (30) days of the meeting;

6. A quarterly financial statement;

7. Annual tax and assessment reports of the Department of Insurance, **Financial Institutions and Professional Registration** which shall be filed with the department. The uniform experience rating plan promulgated by the advisory organization shall be used in determining the modified premium;

8. Additionally, [on an annual basis each employer in the trust shall procure an experience rating sheet from the Uniform Experience Modification Rating Plan of the advisory organization, at the expense of the employer or trust] **trusts shall utilize a uniform experience rating plan promulgated by an approved advisory organization. Trusts shall develop experience ratings for their members based on the plan;**

9. All advertising and informational brochures shall be submitted to the division for review and comment within thirty (30) days after distribution and use. If the division disapproves, the trust shall revise the material and distribute only the new material, which shall include an explanation of all changes to be sent to all persons that received the new material;

10. The trust shall notify the division at least thirty (30) days prior to any change in ownership, officers, trustees, operations, service company, address, security, or any other change that affects the trust's self-insurance status. If a member of the trust changes address or ownership, the trust shall notify the division within thirty (30) days of the change[:]; and

11. The Annual Report for Self-Insured Trusts shall be filed annually with the division within one hundred fifty (150) days from the end of the calendar year.

[11.]12. Other reports as determined by the division.

(7) Trust Self-Insurers; Trustee Responsibilities. To ensure the financial stability of the operation of each self-insured trust, the board of trustees shall be responsible for all operations of the trust. The board of trustees shall have at least five (5) persons elected from the membership of the trust, association, or organization for stated terms of office, to direct the administration of the trust. The board's duties shall include responsibility for approving application for membership in such trust. A trustee, employee of the trust, or immediate family member shall not be an owner, officer, or employee of the trust's service company(ies). The board of trustees of each trust shall take all necessary precautions to safeguard the assets of the trust, including but not limited to, all of the following:

(A) Where the trust has designated a fiscal agent to administer the financial affairs of the trust, the fiscal agent, as obligee, shall furnish security as provided by paragraph (5)(B)3. in an amount sufficient, but not less than one (1) million dollars [*(\$1,000,000)*], to protect the trust against the misrepresentation or misuse of any monies or securities. The amount of the bond or policy shall be determined by the division and evidence of such shall be filed as one (1) of the conditions required for approval of the establishment and continued operation of a self-insurers' trust;

(B) Retain responsibility for all monies collected or disbursed from the trust, *[and] which shall be placed in a designated depository. Trusts with three (3) years or less of experience shall separate all monies into a claims trust account and an administrative trust account. [At least seventy percent (70%) of the net premium shall be placed into the claims trust account in a designated depository for the sole purpose of paying incurred and contingent workers' compensation liabilities, allocated expenses, and special loss related expenses, such as funeral expenses, as imposed by Chapter 287, RSMo. The remaining thirty percent 30% premium shall be placed into an administrative trust account in a designated depository for the payment of excess insurance premiums, taxes, general regulatory fees and assessments, bonds, and administrative costs. The division, in its discretion, may allow a minor deviation in expenses as a percentage of net premium collected on an annual basis.] The claims trust account shall consist of the loss and loss adjustment expense portion of the premium. The remaining premium shall be placed in the administrative trust account.* Such designated depository shall be a Missouri bank or trust company. Interest earned shall accrue to its respective account. Such accounts shall be invested in United States treasury bills, notes, or bonds, certificates of deposit issued by a duly chartered commercial bank, or a transaction account of the designated depository. The executive director of the trust shall establish a revolving trust or account for use by the authorized service company, for use in claims payments;

(8) Trust Self-Insurers Trusts—Discounts, Surcharges, Surplus Distribution, Deficits.

(A) The trust shall not authorize total discounts for any individual member exceeding [*fifteen*] **twenty-five** percent [*(15%)*] (**25%**). All discounts shall be based on objective quantitative factors and applied uniformly to all trust members.

(D) In the event of an **aggregate** deficit in [*any*] **all** trust years, the trust shall immediately notify the division and the deficit shall be made up immediately from any of the following:

1. [*Unencumbered surplus from trust year other than the current trust year;*] **By an increase to the trust's security amount;**

[*2. Administrative account;*]

[*3.*] **2.** By assessment of the membership [*of the deficit trust year if ordered; and*], **as indicated in the trusts' by laws;**

3. By increased rates for subsequent years; or

4. By such alternative method as the division may approve. [*The division shall be notified before any transfer of unencumbered surplus monies.*]

(E) Trusts with more than three (3) years of experience shall meet the following: **aggregate surplus plus their current security amount shall be greater than either one and one-half (1 1/2) times the largest historical per occurrence retention or twenty percent (20%) of the trust's current estimated annual premium. If the trust does not meet the surplus requirement within the term of the plan of action approved by the division, or any extension that may be granted at the division's sole discretion, the trust shall come into compliance by utilizing any of the four (4) options available in subsection (8)(D).**



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
IRREVOCABLE LETTER OF CREDIT

TO: Missouri Department of Labor and Industrial Relations (Beneficiary)
Division of Workers' Compensation
P.O. Box 58
Jefferson City, MO 65102-0058

Amount U.S. \$ _____ Letter of Credit Line

Date of Issuance _____

At the Request of _____

Doing business as _____

of _____ State of _____

We hereby issue our irrevocable letter of credit in favor of the Missouri Department of Labor and Industrial Relations, Division of Workers' Compensation, in the sum of _____ dollars (\$ _____) available by your demand for payment.

Demand under this irrevocable letter of credit must be accompanied by a written order of the Division of Workers' Compensation that there has been a default in the payment of a final Workers' Compensation award to any and all persons who may be entitled to such sum for medical, surgical and other services, funeral expenses or compensation for thirty days or that the principal has become insolvent,

and marked "Drawn against irrevocable letter of credit number _____."

This obligation shall be deemed automatically renewed on an annual basis for a period of not less than five (5) years from the date of this letter. This credit will expire in full and finally five (5) years from the date of issuance. The issuing banking institution may cancel the letter of credit and be released of future liability hereunder by delivering sixty (60) days' prior written notice to the Missouri Department of Labor and Industrial Relations, Division of Workers' Compensation, at the address shown above. Cancellation shall not affect any liability incurred and accrued hereunder prior to the termination of the sixty (60)-day period.

Upon receipt of notification, you may make your one (1) demand for payment for the unused balance of this irrevocable letter of credit, mentioning thereon our letter of credit number _____ accompanied by your signed statement that the agreement is still outstanding and that the proceeds of the payment will be retained and used in lieu of the letter of credit with any unused portion to be returned to the accountee.

We hereby engage with you that demands made in conformity with the terms of this credit will be duly honored on presentation.

In witness whereof, we have duly executed the foregoing this _____ day of _____, 20 _____.

Issuing Bank Institution

Address

City, State, Zip Code

Bank routing transit number

By _____
Signature and Title of Bank Official

Before me personally appeared _____ who acknowledges that s/he signed the foregoing as his/her free act and deed.

I have hereunto set my hand and affixed my official seal at my office in this _____ day of _____ 20 _____.

My term expires _____
Notary Public



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION

I hereby authorize the Missouri Department of Labor and Industrial Relations, Division of Workers' Compensation, to release confidential information to _____ for the purpose

of making demand for payment on letter of credit number _____ as long as the obligation remains in force and effect. Release of this information to the named banking institution does not give the banking institution authority to request information other than information concerning the delinquent periods for which a demand for payment is being made. I also release the Missouri Department of Labor and Industrial Relations, Division of Workers' Compensation, and Division personnel from any and all liability under section 287.380, RSMo, resulting from the release and disclosure of confidential information to this banking institution.

In witness whereof I, (We) have duly executed the foregoing this _____ day
of _____, 20_____.

Applicant

Typed and Printed

Workers' Compensation Account Number

Owner/Officer

Signature

Name and Title

Typed and Printed

Before me personally appeared _____ who acknowledges that s/he signed the foregoing as his/her free act and deed.

I have hereunto set my hand and affixed my official seal at my office in this _____ day
of _____, 20_____.

My term expires _____

Notary Public

AUTHORITY: sections 287.280 and 287.650, RSMo [1994] 2000. Original rule filed Dec. 28, 1953, effective Jan. 3, 1954. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 15, 2008.

PUBLIC COST: This proposed amendment is estimated to cost state agencies or political subdivisions one hundred thirty-seven thousand nine hundred ninety-one dollars (\$137,991) to one hundred thirty-eight thousand nine hundred seventy-six dollars (\$138,976) annually in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Workers' Compensation, Attn: Jeff Buker, Director, PO Box 58, Jefferson City, MO 65102-0058. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
 PUBLIC COST**

- I. Department Title:**
- Division Title:**
- Chapter Title:**

Rule Number and Name:	8 CSR 50-3.010 Rules Governing Self-Insurers
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance Annually in the Aggregate
Missouri Division of Workers' Compensation	Approximately \$137,991 - \$138,976 annually.

III. WORKSHEET

The Division of Workers' Compensation will employ approximately one Insurance Financial Analysis Specialist, at an annual salary of approximately \$37,296.00 to analyze and monitor financial operations, management practices and overall company or trust operations of self insurers and recommend appropriate actions. The specialist will also review the letters of credit that are posted by the self insurers to determine if they are acceptable. The credit rating of the issuing bank or savings institution shall be examined based upon the monthly edition of either Moody's Statistical Handbook prepared by Moody's Investors Service, Inc. New York or the quarterly edition or monthly supplement of Financial Institutions Ratings prepared by Standard & Poor's Corporation, New York. The Division will utilize the existing clerical Administrative Office Support Assistant at approximately \$22,148 annually, to assist in part with the letters of credit or financial documents. This brings the total for personal service at approximately fifty nine thousand four hundred forty four dollars to ninety six thousand seven hundred and forty dollars (\$59,444). The Division estimates that the amendment will increase mailings by maximum of 2500 pieces of mail annually costing the Division approximately \$1,000. The Division anticipates that the computer programming changes will cost approximately seventy seven five hundred and forty seven dollars to seventy eight five hundred and thirty two dollars (\$77,547-\$78,532.00).

The total amount of savings to the Division is unknown at this time.

IV. ASSUMPTIONS

See No. III