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SALUS POPULI SUPREMA LEX ESTO

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



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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

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

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

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

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

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

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

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

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

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

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 45—Noxious Weed Rules**

EMERGENCY RULE

2 CSR 70-45.005 Noxious Weed List

PURPOSE: This rule specifies the plants considered to be noxious weeds after revisions of Missouri Chapter 263: Insect Pests and Weeds.

EMERGENCY STATEMENT: The Department of Agriculture finds that this emergency rule is necessary to preserve a compelling governmental interest. This emergency rule informs all landowners in the state, both public and private, which plant species are listed as noxious weeds and therefore subject to being controlled on their land. Weed species designated as “noxious” are those that have the ability to cause economic harm to the state’s agriculture industry and have a high level of difficulty associated with controlling or eradicating the species. This emergency action is needed because Senate Bill 356, passed by the 96th General Assembly and which will take effect August 28, 2011, repealed and revised sections of Chapter 263, Insect Pests and Weeds, that referred to individual noxious weed species. Repealed sections are sections 263.205, 263.230, 263.232, 263.241, and 263.450, RSMo. Sections 263.190, 263.200, 263.220, and 263.240, RSMo, were revised and instead of specifying individual noxious weed species now refer to “noxious weeds.” These revisions

consolidated sections of Chapter 263, Insect Pests and Weeds, and provide consistency and clarity with regard to noxious weeds and the responsibility for their control on both public and private lands. With the revisions in Chapter 263, the only noxious weeds that are now specified in the revised statute are Johnson grass and marijuana, excluding the other ten (10) species until a rule is filed to list all of them. This emergency rule provides a list of those plants that are regarded to be noxious weeds so there will be no lapse in portions of Chapter 263 while a proposed rule is filed. If this action is not taken, there will be a loss of a critical control period during the late summer and fall for applying herbicides to noxious weeds such as the teasels, thistles, knapweed, and kudzu. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Department of Agriculture believes this emergency rule to be fair to all interested persons and parties under the circumstances. This emergency rule was filed August 18, 2011, becomes effective August 28, 2011, and expires February 23, 2012.

(1) Noxious weed species are the following plants: Musk thistle (*Carduus nutans* L.), Scotch thistle (*Onopordum acanthium* L.), Canada thistle (*Cirsium arvense* L. Scop.), multiflora rose (*Rosa multiflora* Thunb. ex Murr.), field bindweed (*Convolvulus arvensis* L.), spotted knapweed (*Centaurea stoebe* L., including all subspecies), cutleaf teasel (*Dipsacus laciniatus* L.), common teasel (*Dipsacus fullonum* L.), kudzu (*Pueraria montana* [Lour.] Merr.), purple loosestrife (*Lythrum salicaria* L. and any hybrids thereof), marijuana (*Cannabis sativa* L.), and Johnson grass (*Sorghum halepense* L.). The department will maintain a list of noxious weeds and make it available to the public.

AUTHORITY: section 263.190, SB 356, First Regular Session, Ninety-sixth General Assembly, 2011. Emergency rule filed Aug. 18, 2011, effective Aug. 28, 2011, expires Feb. 23, 2012.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 31—Reimbursement for Services**

EMERGENCY AMENDMENT

9 CSR 10-31.030 Intermediate Care Facility for the Mentally Retarded Federal Reimbursement Allowance. The department is amending sections (1) and (2).

PURPOSE: This amendment is based on changes in federal and state law and updates the determination of the Federal Reimbursement Allowance (FRA) for each Intermediate Care Facility for the Mentally Retarded (ICF/MR) operated primarily for the care and treatment of mental retardation/developmental disabilities. The amendment applies to private ICF/MRs and ICF/MR facilities operated by the Department of Mental Health. This follows a recent federal law change establishing a higher ceiling for the ICF/MR FRA collections.

EMERGENCY STATEMENT: During the First Regular Session, 96th General Assembly, HCS for SS #2 for SCS for SB 62 was passed and approved. This legislation was signed into law on June 10, 2011, and became effective on August 28, 2011. Beginning October 1, 2011, each Intermediate Care Facility for the Mentally Retarded (ICF/MR) service provider is required to pay recalculated assessments on their net operating revenues for the privilege of providing ICF/MR services in the state. This rule will establish how the Department of Mental Health will obtain funds through an assessment on the private and publicly operated ICF/MRs. These funds will be used to provide needed oversight and services for consumers with developmental disabilities.

Without an emergency amendment, there may be a lack of information regarding how the Federal Reimbursement Allowance will be determined and collected from such facilities and a delay in the Department of Mental Health obtaining such funds to provide services. The Department of Mental Health finds that this emergency amendment is necessary to preserve a compelling governmental interest, to ensure state revenue is available, and to promote safety and quality in mental health community programs that are in place on this date. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Missouri Department of Mental Health believes that this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 1, 2011, becomes effective October 1, 2011, and expires March 28, 2012.

(1) The following words and terms, as used in this rule, mean:

(A) Base cost report. MO HealthNet cost report for the second prior fiscal year relative to the State Fiscal Year (SFY) for which the assessment is being calculated./] (For example, the SFY 2009 Federal Reimbursement Allowance (FRA) assessment will be determined using the **Intermediate Care Facility for the Mentally Retarded (ICF/MR)** cost report from FY 2007.);

(B) Department. Department of Mental Health./];

(C) Director. Director of the Department of Mental Health./];

(D) Division. Division of Mental Retardation/Developmental Disabilities, Department of Mental Health./];

(E) Engaging in the business of providing residential habilitation care. Accepting payment for ICF/MR services rendered./];

(F) Fiscal period. Twelve (12)-month reporting period determined by the State Fiscal Year./];

(G) Intermediate Care Facility for the Mentally Retarded (ICF/MR). A private or department facility that admits persons who are mentally retarded or developmentally disabled for residential habilitation and other services pursuant to Chapter 630, RSMo, and that has been certified to meet the conditions of participation under 42 CFR 483, Subpart I./];

(H) Intermediate Care Facility for the Mentally Retarded Federal Reimbursement Allowance (ICF/MRFRA). The assessment paid by each ICF/MR./];

(I) Net revenues. Gross revenues less bad debts, less charity care, and less contractual allowances./]; and

(J) Trend factor. Centers for Medicare and Medicaid Services (CMS) Prospective Payment System Skilled Nursing Facility Input Price Index (SNF IPI) four (4) quarter moving average (Source: GLOBAL INSIGHT, INC, 4th Qtr, 2007) (4 Quarter Moving Average Percent Changes in the CMS Prospective Payment System Skilled Nursing Facility Input Price Index (SNF IPI) using Forecast Assumptions, by Expense Category: 1990-2017).

(2) Each ICF/MR operated primarily for the care and treatment of mental retardation/developmental disabilities engaging in the business of providing residential habilitation and other services in Missouri shall pay an ICF/MRFRA. The ICF/MRFRA shall be calculated by the department as follows:

(B) Beginning on October 1, 2011, and each year thereafter, the ICF/MRFRA annual assessment shall be five and ninety-five hundredths percent (5.95%) of the ICF/MR's net revenues determined from the base cost report relative to the State Fiscal Year for which the assessment is being calculated. The cost report shall be trended forward from the second prior year to the current fiscal year by applying the SNF IPI trend factor for each year under the ICF/MRFRA calculation;

/(B)/(C) The annual assessment shall be divided into twelve (12) equal amounts and collected over the number of months the assessment is effective. The assessment is made payable to the director of

the Department of Revenue to be deposited in the state treasury in the ICF/MRFRA Fund;

/(C)/(D) If the assessment amount determined using the second prior year cost report trended forward for the same year is greater than the actual assessment maximum amount [(5.5 percent of revenues)] on the current year ICF/MR provider tax revenues in the aggregate, then the department will offset the tax collections for the next year by each provider's pro-rata share of the difference between the amount of the tax as determined in subsection (2)(A) of 9 CSR 10-31.030 and the actual SFY amount determined from the current year ICF/MR cost report;

/(D)/(E) If an ICF/MR does not have a base cost report, net revenues shall be estimated as follows:

1. Net revenues shall be determined by computation of the ICF/MR's projected annual patient days multiplied by its interim established per diem rate; and

/(E)/(F) The ICF/MRFRA assessment for ICF/MRs that merge operation under one (1) MO HealthNet provider number shall be determined as follows:

1. The previously determined ICF/MRFRA assessment for each ICF/MR shall be combined under the active MO HealthNet provider number for the remainder of the State Fiscal Year after the division receives official notification of the merger; and

2. The ICF/MRFRA assessment for subsequent fiscal years shall be based on the combined data for both facilities.

AUTHORITY: section[s] 630.050, RSMo Supp. 2010, and section 633.401, [HCS for SCS for Senate Bill 1081, Second Regular Session, Ninety-fourth General Assembly.] HCS for SS #2 for SCS for SB 62, First Regular Session, Ninety-sixth General Assembly, 2011. Emergency rule filed July 1, 2008, effective July 11, 2008, expired Dec. 28, 2008. Original rule filed July 1, 2008, effective Feb. 28, 2009. Emergency amendment filed Sept. 1, 2011, effective Oct. 1, 2011, expires March 28, 2012.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules**

EMERGENCY RULE

20 CSR 2220-2.675 Standards of Operation/Licensure for Class L Veterinary Pharmacies

PURPOSE: This rule defines standards for a Class L veterinary pharmacy.

EMERGENCY STATEMENT: House Bill 412 and Senate Bill 325, passed by the 96th General Assembly, revised sections 338.220 and 338.240, RSMo, to grant the Missouri Board of Pharmacy regulatory authority over veterinary pharmacies. Effective August 28, 2011, all entities engaged in the sale, dispensing, or filling of legend drugs by prescription for animal use are required to hold a duly-issued pharmacy permit from the board. The board's current pharmacy rules and operational standards do not include safety standards/requirements applicable to veterinary pharmacies who are engaged in dispensing prescription drugs for use in Missouri livestock or other food-producing animals. The emergency rule is necessary to protect the public safety, health, and/or welfare by establishing specific standards/requirements for veterinary pharmacies, including specific provisions for proper medication storage, reporting medication dispensing errors, controlled substance dispensing, and documenting/communicating mandatory withdrawal, withholding, or discard times for meat, milk, eggs, or other foods derived from treated animals. Alternatively, the emergency rule is necessary to ensure

the continued supply and availability of antibiotics and vaccines for animal use. The board's current rules prohibit a pharmacy from dispensing a legend drug without a prescription. Under federal law, however, antibiotics and immunizations can be dispensed for animal use without a prescription if allowed by applicable state law. Many of these antibiotics/immunizations are used to prevent disease and/or infection in livestock and other food-producing animals. In light of the board's current prohibition, entities subject to the revised sections 338.220 and 338.240, RSMo, would be prohibited from dispensing these antibiotics and immunizations over-the-counter after August 28, 2011, absent an emergency rule. The Missouri State Board of Pharmacy finds this emergency rule is necessary to preserve a compelling governmental interest in the continued supply and availability of legend antibiotics and immunization for animal treatment, including Missouri livestock and food-producing animals. The emergency rule is also needed to protect the public health, safety, and/or welfare by enacting standards to ensure the safe, proper, and appropriate dispensing of prescription drugs for animal use. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri State Board of Pharmacy believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 29, 2011, becomes effective September 8, 2011, and expires March 5, 2012.

(1) A Class A or a Class L pharmacy permit shall be required for any entity engaged in the sale, dispensing, or filling of a legend drug for use in animals that must only be dispensed by prescription under state or federal law. For purposes of this rule, a legend drug shall be defined as provided by 21 USC section 353.

(2) Class A Pharmacies. Class A permit holders shall comply with all laws/rules applicable to Class A pharmacies, provided a Class A pharmacy shall comply with sections (7) and (8) of this rule when legend drugs are dispensed for animal use.

(3) Class L Pharmacies. A Class L pharmacy shall dispense, sell, or provide legend drugs only for animal use. Except as otherwise provided in this rule, a Class L pharmacy shall comply with all applicable state and federal pharmacy and controlled substance laws/rules including, but not limited to, all applicable provisions of Chapter 338, RSMo, and the rules of the board.

(4) Pharmacy Operations. A Class L pharmacy shall comply with 20 CSR 2220-2.010, with the following allowed modifications:

(A) The pharmacy permit shall be displayed in plain view at the pharmacy location;

(B) The pharmacy shall maintain sufficient space, equipment, and storage capabilities as necessary to carry out its operations;

(C) Legend drugs shall be properly identified and stored in a defined area within the pharmacy;

(D) Legend drugs shall be stored in a clean and sanitary designated area and within temperature requirements as provided for by the manufacturer or the latest edition of the United States Pharmacopoeia (USP);

(E) The pharmacy shall maintain a current reference manual related to veterinary drugs that complies with 20 CSR 2220-2.010(1)(D);

(F) Appropriate sewage disposal must be available within the pharmacy and a hot and cold water supply shall be accessible to pharmacy staff. If compounding is performed, the hot and cold water supply shall be located within the pharmacy;

(G) Pharmacy compounding shall comply with 20 CSR 2220-2.200, 20 CSR 2220-2.400, and all other applicable provisions of state/federal law;

(H) All dispensing errors shall be documented in the pharmacy's records;

(I) Animals shall not be allowed in the designated area where legend drugs are stored or maintained; and

(J) The pharmacist-in-charge shall be notified within twenty-four (24) hours after a dispensing error is learned by pharmacy staff. Documentation of notification shall be maintained in the pharmacy's prescription records.

(5) A Class L pharmacy shall designate a pharmacist-in-charge as required by 20 CSR 2220-2.010(1)(M). The pharmacist-in-charge shall be responsible for supervising pharmacy operations and ensuring compliance with the provisions of this rule and all applicable state/federal laws. Except as otherwise provided in this rule, the pharmacist-in-charge shall also—

(A) Ensure legend drugs are only sold, dispensed, or filled by the pharmacy for animal use;

(B) Ensure legend drugs have been ordered/prescribed by an authorized prescriber; and

(C) Maintain a policy and procedure manual for pharmacy operations. The policy and procedure manual shall be reviewed annually by the pharmacist-in-charge. The manual shall be available for inspection by board personnel and shall include policies and procedures for:

1. Accepting, compounding, dispensing, or filling prescriptions;

2. Accepting, dispensing, or filling prescriptions in the pharmacist's absence;

3. Drug storage and security;

4. Handling drug recalls;

5. Procedures for offering patient/client counseling;

6. If applicable, procedures for dispensing or providing prescriptions in a pharmacist's absence pursuant to section (8) of this rule;

7. Contacting the pharmacist-in-charge for consultation during the pharmacy's business operations or in the event of an emergency; and

8. Reporting and handling dispensing errors. The pharmacist-in-charge shall be notified of a dispensing error within twenty-four (24) hours after the error is learned by pharmacy staff. Policies/procedures shall include the manner of notification.

(6) A pharmacist shall not be required to be physically present on-site during the business operations of a Class L pharmacy if the pharmacist-in-charge reviews the activities and records of the pharmacy operations on a monthly basis to ensure compliance with this rule. This exemption shall not apply if the pharmacy sells, dispenses, or otherwise provides controlled substances. The date of the pharmacist-in-charge review shall be documented and maintained at the pharmacy.

(7) To be valid for purposes of dispensing, legend drug prescriptions for animal use shall conform to all requirements of sections 338.056 and 338.196, RSMo, and shall contain the following:

(A) The date issued;

(B) The client's/owner's name and the class, species, or identification of the animal, herd, flock, pen, lot, or other group being treated;

(C) The prescriber's name, if an oral prescription, or signature, if a written prescription;

(D) Name, strength, and dosage form of drug and directions for use;

(E) The number of refills, when applicable;

(F) The quantity prescribed in weight, volume, or number of units;

(G) The address of the prescriber and the patient when the prescription is for a controlled substance;

(H) Whether generic substitution has been authorized;

(I) The prescriber's Drug Enforcement Administration (DEA) number when the prescription is for a controlled substance; and

(J) Controlled substance prescriptions shall comply with all requirements of federal and state controlled substance laws.

(8) Dispensing. A Class L pharmacy may accept, fill, enter, dispense, or otherwise provide non-controlled legend drugs for animal use in the absence of a pharmacist, provided the pharmacist-in-charge shall review the prescription record for each such prescription on a monthly basis. The review shall be documented as provided in section (6) of this rule. For purposes of 20 CSR 2220-2.010(3), the dispensing pharmacist shall be identified as the pharmacist-in-charge unless dispensed by another licensed pharmacist.

(A) Legend drugs may only be compounded for use in animals when a pharmacist is present on site.

(B) Clients must be offered an opportunity to consult with a pharmacist as required by 20 CSR 2220-2.190. If the pharmacist is not present on site, a written offer to counsel with a contact telephone number for a pharmacist shall be supplied with the medication.

(9) Labeling. Prescriptions must be labeled as required by section 338.059, RSMo. Prescription labels may be manually written or numbered and shall include:

(A) The class, species, or identification of the animal, herd, flock, pen, lot, or other group being treated; and

(B) If applicable, the veterinarian's specified withdrawal, withholding, or discard time for meat, milk, eggs, or any other food which might be derived from the treated animal(s).

(10) Records. Class L pharmacy records shall be maintained as required by Chapter 338, RSMo, and the rules of the board, including 20 CSR 2220-2.018 and 20 CSR 2220-2.080.

(A) The information specified in section (7) of this rule shall be required and recorded on all handwritten, telephone, oral, and electronically produced prescriptions that are processed for dispensing by a pharmacist/pharmacy. If applicable, prescription records shall also include the veterinarian's specified withdrawal, withholding, or discard time identified in section (9) of this rule.

(B) Any change or alteration made to the prescription dispensed based on contact with the prescriber shall be documented in the pharmacy's prescription records. This shall include, but is not limited to, a change in quantity, directions, number of refills, or authority to substitute a drug.

(C) The pharmacy's prescription records shall identify any prescription dispensed in a pharmacist's absence pursuant to subsection (8)(B) of this rule.

(11) A Class L pharmacy shall comply with all applicable state or federal controlled substance laws.

(12) The provisions of this rule shall not be applicable to the sale of medication for use in animals that may lawfully be dispensed without a prescription nor shall this rule be construed to require licensure for entities solely engaged in selling, dispensing, or providing medications authorized for dispensing without a prescription.

(13) The provisions of this rule shall not prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding, administering, prescribing, or dispensing of their own prescriptions, medicine, drug, or pharmaceutical product to be used for animals.

AUTHORITY: sections 338.056, 338.059, 338.196, 338.250, 338.280, and 338.343, RSMo 2000, and sections 338.010, 338.055, 338.140, 338.150, 338.210, 338.220, and 338.240, HB 412 and SB 325, First Regular Session, Ninety-sixth General Assembly, 2011. Emergency rule filed Aug. 29, 2011, effective Sept. 8, 2011, expires March 5, 2012. A proposed rule covering this same material is published in this issue of the Missouri Register.

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

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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 20—Division of Learning Services Chapter 100—Office of Quality Schools

PROPOSED RULE

5 CSR 20-100.105 Missouri School Improvement Program—5

PURPOSE: This rule implements an accountability system for Missouri public school districts and is designed to stimulate and encourage improvement in student performance. An assessment of school districts' educational outcomes will enable the State Board of Education to classify districts as required by state law.

(1) Pursuant to section 161.092, RSMo, this rule is to be effective two (2) years from the date of adoption of the proposed rule by the

State Board of Education (board). The *Missouri School Improvement Program (MSIP)—5 Performance Standards and Indicators*, Appendix A, included herein, is comprised of quantitative standards for school districts. *MSIP-5 Process Standards and Indicators* will include evidence of adequate instruction in physical education and fine arts to be included in standards used to determine classification.

(2) School district performance will be reviewed annually by the Department of Elementary and Secondary Education (department) in accordance with this rule, including the standards, using the appropriate scoring guide, forms, and procedures outlined by the department. Review of these data will guide the department in determining school districts in need of improvement as well as the appropriate level of intervention necessary for significant and sustained improvement in student achievement and in determining high performing school districts that may serve as models of excellence. Decisions will be made using multiple years of data.

(3) The board will assign classification designations of unaccredited, provisionally accredited, accredited, and accredited with distinction based on the standards of the MSIP.

(4) As a condition of receiving a classification designation other than unaccredited, each school district reviewed under the MSIP must maintain a current school improvement plan in a format approved by the department. Districts identified through the MSIP as needing improvement must submit a school improvement plan for approval by the department.

(5) A school district's classification designation based on the standards of the MSIP will remain in effect until the board approves another designation. The board may consider changing a district's classification designation upon its determination that the district has—

(A) Failed to implement any required school improvement plan at an acceptable level;

(B) Demonstrated significant change in student performance over multiple years;

(C) Employed a superintendent or chief executive officer without a valid Missouri superintendent's certificate in a K-12 school district, or employed a superintendent or chief executive officer without a valid Missouri superintendent's or elementary principal's certificate in a K-8 school district;

(D) Experienced significant change in the scope or effectiveness of the programs, services, or financial integrity upon which the original classification designation was based; and/or

(E) Failed to comply with a statutory requirement.

(6) The board of education of any school district which is dissatisfied with the classification designation assigned by the board shall request reconsideration within sixty (60) calendar days of notice received of the original classification. The request for reconsideration shall be submitted to the commissioner of education and state the specific basis for reconsideration, including any errors of fact cited to support reconsideration. Review by the board shall be scheduled within sixty (60) calendar days of receipt of the request for reconsideration and shall be based upon the materials submitted with the original classification, the request for reconsideration, and any materials offered by the commissioner of education or requested by the board.

APPENDIX A
Missouri School Improvement Program
MSIP—5 Performance Standards and Indicators

PERFORMANCE STANDARDS FOR K–12 DISTRICTS

1. Academic Achievement—The district administers assessments required by the Missouri Assessment Program (MAP) to measure academic achievement and demonstrates improvement in the performance of its students over time.

1. Student performance on assessments required by the MAP meets or exceeds the state standard or demonstrates improvement in performance over time.
2. The percent of students tested on each required MAP assessment meets or exceeds the state standard.
3. Growth data indicate that students meet or exceed growth expectations.

2. Subgroup Achievement—The district demonstrates required improvement in student performance for its subgroups.

1. The performance of students identified on each assessment in identified subgroups, including free/reduced price lunch, racial/ethnic background, English language learners, and students with disabilities, meets or exceeds the state standard or demonstrates required improvement.

3. College and Career Readiness—The district provides adequate post-secondary preparation for all students.

1. The percent of graduates who scored at or above the state standard on any department-approved measure(s) of college and career readiness, for example, the ACT®, SAT®, COMPASS® or Armed Services Vocational Aptitude Battery (ASVAB), meets or exceeds the state standard or demonstrates required improvement.
2. The district's average composite score(s) on any department-approved measure(s) of college and career readiness, for example, the ACT®, SAT®, COMPASS®, or ASVAB, meet(s) or exceed(s) the state standard or demonstrate(s) required improvement.
3. The percent of graduates who participated in any department-approved measure(s) of college and career readiness, for example, the ACT®, SAT®, COMPASS®, or ASVAB, meets or exceeds the state standard or demonstrates required improvement.
4. The percent of graduates who earned a qualifying score on an Advanced Placement (AP), International Baccalaureate (IB), or Technical Skills Attainment (TSA) assessments and/or receive college credit through early college, dual enrollment, or approved dual credit courses meets or exceeds the state standard or demonstrates required improvement.
5. The percent of graduates who attend post-secondary education/training or are in the military within six (6) months of graduating meets the state standard or demonstrates required improvement.
6. The percent of graduates who complete career education programs approved by the department and are placed in occupations directly related to their training, continue their education, or are in the military within six (6) months of graduating meets the state standard or demonstrates required improvement.

4. Attendance Rate—The district ensures all students regularly attend school.

1. The percent of students who regularly attend school meets or exceeds the state standard or demonstrates required improvement.

5. Graduation Rate—The district ensures all students successfully complete high school.

1. The percent of students who complete an educational program that meets the graduation requirements as established by the board meets or exceeds the state standard or demonstrates required improvement.

PERFORMANCE STANDARDS FOR K-8 DISTRICTS

1. Academic Achievement—The district administers assessments required by the MAP to measure academic achievement and demonstrates improvement in the performance of its students over time.

1. Student performance on assessments required by the MAP meets or exceeds the state standard or demonstrates improvement in performance over time.
2. The percent of students tested on each required MAP assessment meets or exceeds the state standard.
3. Growth data indicate that students meet or exceed growth expectations.

2. Subgroup Achievement—The district demonstrates required improvement in student performance for its subgroups.

1. The performance of students identified on each assessment in identified subgroups, including free/reduced price lunch, racial/ethnic background, English language learners, and students with disabilities meets or exceeds the state standard or demonstrates required improvement.

3. High School Readiness—The district provides adequate post-elementary preparation for all students.

1. The percent of students who earn a proficient score on one (1) or more of the high school end-of-course (EOC) assessments while in elementary school meets or exceeds the state standard or demonstrates required improvement.

4. Attendance Rate—The district ensures all students regularly attend school.

1. The percent of students who regularly attend school meets or exceeds the state standard or demonstrates required improvement.

AUTHORITY: sections 160.514, 160.526, and 167.131, RSMo 2000 and sections 160.518, 161.092, 162.081, and 168.081, RSMo Supp. 2010. Original rule filed Aug. 18, 2011.

PUBLIC COST: The cost of this proposed rule to public school districts will vary depending upon the number and size of districts selected to undergo onsite reviews. Estimates include a cost range of two thousand four hundred forty-two dollars to fourteen thousand six hundred fifty-two dollars (\$2,442–\$14,652) per district with an estimated sixteen (16) districts undergoing an onsite review each year for the life of the rule. School district Missouri Assessment Program cost ranges from zero to five dollars and forty cents (\$0–\$5.40) per pupil assessed per year for the life of the rule, based on current costs. The Department of Elementary and Secondary Education cost is \$9,295,208 per year for the life of the rule, based on current costs.

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 the support of or in opposition to this proposed rule with the Department of Elementary and Secondary Education, Attention: Margie Vandeven, Assistant Commissioner, Office of Quality Schools, PO Box 480, Jefferson City, MO 65102-0480 or by email at: msip@dese.mo.gov. Comments also may be submitted online at <http://dese.mo.gov/qs/MSIP5.html>. 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. RULE NUMBER

Title: Department of Elementary and Secondary Education

Division: Division of Learning Services - 20

Chapter: Office of Quality Schools - 100

Type of Rulemaking: Proposed Rule

Rule Number and Name: 5 CSR 20-100.105 Missouri School Improvement Program—5

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Public Elementary and Secondary School Districts	Per district cost range of \$2,442 - \$14,652 for those districts undergoing onsite review plus per pupil assessment cost range of \$0 - \$5.40 per year for the life of the rule, based on current costs
Department of Elementary and Secondary Education	\$9,295,208 per year for the life of the rule, based on current costs

III. WORKSHEET

Cost for Public Elementary and Secondary Districts

Based upon student performance indicators, a limited number of districts are selected for an onsite review each year. Resources required to prepare for and conduct a review vary greatly from district to district. For the purposes of this fiscal note, districts are classified into four (4) categories based upon student population. Public entity cost for public school districts is based upon estimates of district staff participation and visiting team size and takes into consideration staff interviews and document preparation.

This results in an estimated 16 onsite reviews per year, ranging in cost from \$2,442 - \$14,652 per district.

District Category Size	Estimated number Visits per year	District Cost	Yearly Cost
1	1	\$14,652	\$14,652
2	3	\$ 7,326	\$21,978
3	6	\$ 3,663	\$21,978
4	6	\$ 2,442	\$14,652

For the purposes of this fiscal note, Missouri Assessment Program assessment costs for districts are provided as cost per pupil, ranging from \$0 - \$5.40, and will vary based upon student population.

Cost for the Department of Elementary and Secondary Education

	4 th Cycle	MSIP 5	Change	Notes
OQS FTE: 4.2	\$405,588	\$284,302	-\$121,286	Includes base + 38% benefits and reflects changes in staffing from MSIP 4 to MSIP 5
ODSM FTE: 2.5	\$140,487	\$158,512	+\$18,025	
OCCR FTE: 7.5	\$477,408	\$477,408	\$0	
Travel	\$53,535	\$40,602	-\$12,933	In-state travel for employees and team member reimbursement
Required Training / Technical Support	\$8,618	\$10,341	+\$1,723	Includes team member training and statewide advisory meetings
External Contracts	\$180,000	\$400,000	+\$220,000	Includes growth data, advanced questionnaire and testing vendor and data collection contracts
OA IT support	\$62,000	\$82,000	+\$20,000	Includes base + 38% benefits
Peer Review	\$7,019	\$7,019	\$0	Includes curriculum and CSIP peer review
Subtotal	\$1,334,655	\$1,460,184	+\$125,529	
Assessment Development:				Increased cost in End-of-Course development and implementation due to additional assessments. Vendor cost increases cannot be projected.
Grade Level	\$ 694,664	\$694,664	\$0	
End-of-Course	\$ 230,885	\$523,459	+\$292,574	
Assessment Implementation:				
Grade Level	\$4,299,339	\$4,299,339	\$0	
End-of-Course	\$2,176,608	\$ 2,317,562	+\$140,954	
Subtotal Grade Level	\$4,994,003	\$4,994,003	\$0	
Subtotal End-of-Course	\$2,407,493	\$2,841,021	+\$433,528	
Total	\$8,736,151	\$9,295,208	+\$559,057	

IV. ASSUMPTIONS

This rule establishes standards for the Missouri School Improvement Program (MSIP), which is a program that promotes school improvement in districts on a statewide basis and provides accreditation ratings for Missouri districts implemented by the Department of Elementary and

Secondary Education (DESE). It is applicable to public school districts. Information about each school district related to these MSIP 5 standards is taken from existing data which each school district submits to DESE each school year or which is provided to DESE through contract from a third-party vendor. Each year a limited number of districts are selected for review, based upon student performance outcomes as measured by the MSIP 5 standards and indicators. The MSIP onsite review requires the time and attention of many within a school district. Time and resources required to prepare for and go through the review process will vary greatly from district to district. District costs are based upon a sample of the MSIP reviews conducted during the MSIP 4th Cycle. This results in an estimated 16 onsite reviews per year, ranging in cost from \$2,442 - \$14,652 per district depending on its size. This cost may be reduced if the district is granted a waiver under 5 CSR 20-100.180.

Missouri Assessment Program costs for districts are provided as cost per pupil, ranging from \$0 - \$5.40, and will vary based upon student population.

State agency costs are based on a sample of MSIP reviews conducted during the MSIP 4th Cycle, including cost reimbursements for field staff from school districts, department team members, team leaders and consultants, (including mileage, food and lodging). Annual costs are based upon an anticipated number of 16 reviews per year and the representation of staffing of positions in the Office of Quality Schools, the Office of Data Systems Management, the Office of College and Career Readiness that directly relate to the implementation of the MSIP. Changes include a reduction in Advanced Questionnaire survey costs, as we move to full online administration, an additional amount for analysis of individual student growth data and a National Clearinghouse license (included in data analysis). Staffing and assessment costs, which were not included in previous MSIP fiscal notes, have been included in this note.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Administrative and Financial
Services
Chapter 345—Missouri School Improvement Program**

PROPOSED RESCISSION

5 CSR 30-345.011 Measurement of Effectiveness of Remediation of Students Scoring at the Lowest Level on the Missouri Assessment Program. This rule established the method for measuring the effectiveness of the remediation of students who score in the lowest level (Step 1) on the Missouri Assessment Program (MAP).

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 161.092, RSMo 1994 and section 167.640, RSMo Supp. 1999. Original rule filed Sept. 27, 2000, effective May 30, 2001. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

PROPOSED RESCISSION

5 CSR 50-340.018 Military Service Credit. This rule established guidelines for public school districts accepting high school credit for military service credit.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 161.092, RSMo 1986. Original rule filed Nov. 5, 1969, effective Nov. 15, 1969. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson

City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

PROPOSED RESCISSION

5 CSR 50-340.019 Military Science Credit. This rule established guidelines for public school districts for the operation of a Junior Reserve Officer Training Corps program.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 161.092, RSMo 1986. Original rule filed Nov. 5, 1969, effective Nov. 15, 1969. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

PROPOSED RESCISSION

5 CSR 50-340.021 Applied Music Credit. This rule provided guidelines for approving high school credit for instruction given by approved private music teachers.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 161.092, RSMo 1986. Original rule filed Nov. 5, 1969, effective Nov. 15, 1969. Rescinded: Filed Aug. 26, 2011.

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

Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

PROPOSED RESCISSION

5 CSR 50-340.022 State Reading Circle Program. This rule established the State Reading Circle Program which encouraged elementary school students to read extensively and established guidelines for its operation.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 161.092, RSMo 1986. Original rule filed Nov. 5, 1969, effective Nov. 15, 1969. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

PROPOSED RESCISSION

5 CSR 50-340.030 Standards for Missouri School Library Media Centers. This rule provided guidelines for public school districts, media, and school library media centers.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 161.092, RSMo 2000. Original rule filed Nov. 5, 1969, effective Nov. 15, 1969. Rescinded and readopted: Filed Oct. 15, 1980, effective Jan. 15, 1981. Amended: Filed March 29, 2002, effective Oct. 30, 2002. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

PROPOSED RESCISSION

5 CSR 50-340.060 Policies and Standards for Part-Time Public School Students. This rule established policies and standards for public school districts that authorized resident public school students, who are not subject to the provisions of section 167.031, RSMo, to attend public school part-time during the regular school term.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: sections 161.092(2) and 163.031, RSMo 1986, and sections 163.011 and 163.021(2), RSMo Supp. 1988. Original rule filed Nov. 15, 1977, effective Feb. 15, 1978. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

PROPOSED RESCISSION

5 CSR 50-340.070 Standards for Part-Time Schools. This rule established standards for part-time schools and established standards for those part-time schools, departments, or classes.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 178.310, RSMo 1986. Original rule filed Jan. 31, 1979, effective May 14, 1979. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

PROPOSED RESCISSION

5 CSR 50-340.100 Approval of Utilizing Courses Delivered Primarily Through Electronic Media. This rule established standards and procedures for approving and implementing courses delivered primarily through electronic media and monitored by teachers who are certified but not fully qualified to teach the courses without the support of electronic media.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 161.092, RSMo 1994. Original rule filed Sept. 25, 1987, effective Jan. 29, 1988. Amended: Filed Sept. 27, 1995, effective March 30, 1996. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

PROPOSED RESCISSION

5 CSR 50-340.150 Priority Schools. This rule established procedures to improve student performance in lower performing schools.

PURPOSE: This rule is being rescinded since the Department of

Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: sections 160.720 and 161.092, RSMo Supp. 2004. Original rule filed Sept. 25, 1987, effective Jan. 29, 1988. Amended: Filed Sept. 27, 1995, effective March 30, 1996. Rescinded and readopted: Filed Oct. 12, 2004, effective May 30, 2005. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 350—State Programs**

PROPOSED RESCISSION

5 CSR 50-350.010 General Provisions. This rule established procedures for implementing the Video Instructional and Educational Development Program authorized by section 170.250, RSMo.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 170.250, RSMo Supp. 1988. Original rule filed May 2, 1989, effective Aug. 24, 1989. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 350—State Programs**

PROPOSED RESCISSION

5 CSR 50-350.020 Safe Schools Educational Program Grants.

This rule established procedures for section 167.335, RSMo, pertaining to grants to schools for the establishment of educational opportunities for students who are violent, abusive, or chronically disruptive.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 167.335, RSMo Supp. 1997. Original rule filed July 31, 1998, effective Feb. 28, 1999. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 350—State Programs**

PROPOSED RESCISSION

5 CSR 50-350.030 Safe Schools Curriculum. This rule identified and adopted a violence prevention program(s) for section 161.650, RSMo, pertaining to a Safe Schools Curriculum Framework for use in Missouri public schools.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 161.650, RSMo Supp. 1997. Original rule filed Oct. 16, 1998, effective May 30, 1999. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 350—State Programs**

PROPOSED RESCISSION

5 CSR 50-350.050 Persistence to Graduation Program Grants. This rule established procedures for section 160.950, RSMo, pertaining to grants to schools for the establishment of drop-out prevention programs.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: sections 160.950 and 161.092, RSMo Supp. 2009. Original rule filed Feb. 1, 2010, effective Aug. 30, 2010. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 870—School Recognition Programs**

PROPOSED RESCISSION

5 CSR 80-870.010 Success Leads to Success Program. This rule provided administrative procedures for implementation of the Success Leads to Success Program which is mandated in Senate Bill 380.

PURPOSE: This rule is being rescinded since the Department of Elementary and Secondary Education has discontinued the application of the standards contained in this rule.

AUTHORITY: section 160.530, RSMo Supp. 1993. Original rule filed Aug. 26, 1993, effective April 9, 1994. Rescinded: Filed Aug. 26, 2011.

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 Department of Elementary and Secondary Education, Office of General Counsel and Governmental Affairs, PO Box 480, Jefferson

City, MO 65102-0480 or by email at counsel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 31—Reimbursement for Services**

PROPOSED AMENDMENT

9 CSR 10-31.030 Intermediate Care Facility for the Mentally Retarded Federal Reimbursement Allowance. The department is amending sections (1) and (2).

PURPOSE: This amendment is based on changes in federal and state law and updates the determination of the Federal Reimbursement Allowance (FRA) for each Intermediate Care Facility for the Mentally Retarded (ICF/MR) operated primarily for the care and treatment of mental retardation/developmental disabilities. The amendment applies to private ICF/MRs and ICF/MR facilities operated by the Department of Mental Health. This follows a recent federal law change establishing a higher ceiling for the ICF/MR FRA collections.

(1) The following words and terms, as used in this rule, mean:

(A) Base cost report. MO HealthNet cost report for the second prior fiscal year relative to the State Fiscal Year (SFY) for which the assessment is being calculated./] (For example, the SFY 2009 Federal Reimbursement Allowance (FRA) assessment will be determined using the **Intermediate Care Facility for the Mentally Retarded (ICF/MR)** cost report from FY 2007.);

(B) Department. Department of Mental Health./;]

(C) Director. Director of the Department of Mental Health./;]

(D) Division. Division of Mental Retardation/Developmental Disabilities, Department of Mental Health./;]

(E) Engaging in the business of providing residential habilitation care. Accepting payment for ICF/MR services rendered./;]

(F) Fiscal period. Twelve (12)-month reporting period determined by the State Fiscal Year./;]

(G) Intermediate Care Facility for the Mentally Retarded (ICF/MR). A private or department facility that admits persons who are mentally retarded or developmentally disabled for residential habilitation and other services pursuant to Chapter 630, RSMo, and that has been certified to meet the conditions of participation under 42 CFR 483, Subpart I./;]

(H) Intermediate Care Facility for the Mentally Retarded Federal Reimbursement Allowance (ICF/MRFRA). The assessment paid by each ICF/MR./;]

(I) Net revenues. Gross revenues less bad debts, less charity care, and less contractual allowances./;] and

(J) Trend factor. Centers for Medicare and Medicaid Services (CMS) Prospective Payment System Skilled Nursing Facility Input Price Index (SNF IPI) four (4) quarter moving average (Source: GLOBAL INSIGHT, INC, 4th Qtr, 2007) (4 Quarter Moving Average Percent Changes in the CMS Prospective Payment System Skilled Nursing Facility Input Price Index (SNF IPI) using Forecast Assumptions, by Expense Category: 1990-2017).

(2) Each ICF/MR operated primarily for the care and treatment of mental retardation/developmental disabilities engaging in the business of providing residential habilitation and other services in Missouri shall pay an ICF/MRFRA. The ICF/MRFRA shall be calculated by the department as follows:

(B) Beginning on October 1, 2011, and each year thereafter, the ICF/MRFRA annual assessment shall be five and ninety-five hundredths percent (5.95%) of the ICF/MR's net revenues determined from the base cost report relative to the State Fiscal Year

for which the assessment is being calculated. The cost report shall be trended forward from the second prior year to the current fiscal year by applying the SNF IPI trend factor for each year under the ICF/MRFRA calculation;

[(B)](C) The annual assessment shall be divided into twelve (12) equal amounts and collected over the number of months the assessment is effective. The assessment is made payable to the director of the Department of Revenue to be deposited in the state treasury in the ICF/MRFRA Fund;

[(C)](D) If the assessment amount determined using the second prior year cost report trended forward for the same year is greater than the actual assessment maximum amount **[(5.5 percent of revenues)]** on the current year ICF/MR provider tax revenues in the aggregate, then the department will offset the tax collections for the next year by each provider's pro-rata share of the difference between the amount of the tax as determined in subsection (2)(A) of 9 CSR 10-31.030 and the actual SFY amount determined from the current year ICF/MR cost report;

[(D)](E) If an ICF/MR does not have a base cost report, net revenues shall be estimated as follows:

1. Net revenues shall be determined by computation of the ICF/MR's projected annual patient days multiplied by its interim established per diem rate; and

[(E)](F) The ICF/MRFRA assessment for ICF/MRs that merge operation under one (1) MO HealthNet provider number shall be determined as follows:

1. The previously determined ICF/MRFRA assessment for each ICF/MR shall be combined under the active MO HealthNet provider number for the remainder of the State Fiscal Year after the division receives official notification of the merger; and

2. The ICF/MRFRA assessment for subsequent fiscal years shall be based on the combined data for both facilities.

AUTHORITY: section[s] 630.050, *RSMo Supp. 2010*, and section 633.401, *[HCS for SCS for Senate Bill 1081, Second Regular Session, Ninety-fourth General Assembly.] HCS for SS #2 for SCS for SB 62, First Regular Session, Ninety-sixth General Assembly, 2011. Emergency rule filed July 1, 2008, effective July 11, 2008, expired Dec. 28, 2008. Original rule filed July 1, 2008, effective Feb. 28, 2009. Emergency amendment filed Sept. 1, 2011, effective Oct. 1, 2011, expires March 28, 2012. Amended: Filed Sept. 1, 2011.*

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 opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 7—Security and Surveillance**

PROPOSED AMENDMENT

11 CSR 45-7.160 Emergency Medical [Technician] Services (EMS) First Responder Required. The commission is amending the rule title, the purpose statement, and sections (1) and (2) and adding section (3).

PURPOSE: This amendment reduces the current EMS standard for casinos from the requirement to have an emergency medical technician on duty to an emergency medical services first responder on duty.

PURPOSE: This rule requires that a certified emergency medical [technician] services (EMS) first responder be on board an excursion gambling boat when gaming is being conducted.

(1) An emergency medical [technician who is certified pursuant to Chapter 190, RSMo,] services (EMS) first responder is required to be on board an excursion gambling boat at all times when gaming is being conducted or when passengers are present.

(2) The Class [A] B licensee is responsible for the full cost of hiring [or contracting with the emergency medical technicians] EMS first responders, who shall be considered gaming employees for the purpose of licensure.

(3) Each Class B licensee shall ensure all designated EMS first responders shall—

(A) Be, at a minimum, trained according to national standards by a state certified training agency pursuant to Chapter 190, RSMo, 19 CSR 30-40.331, and the National EMS Scope of Practice Model for emergency medical responder;

(B) Maintain a current nationally-recognized registration as an emergency medical responder or higher level of service; and

(C) Have their emergency medical activities monitored by a medical director per 19 CSR 30-40.303.

AUTHORITY: section[s] 313.004, RSMo 2000, and section 313.805, RSMo [1994] Supp. 2010. Emergency rule filed June 14, 1994, effective June 24, 1994, expired Oct. 21, 1994. Original rule filed May 4, 1994, effective Sept. 30, 1994. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Aug. 25, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 9—Internal Control System**

PROPOSED AMENDMENT

11 CSR 45-9.114 Minimum Internal Control Standards (MICS)—Chapter N. The commission is amending the rule title and section (1).

PURPOSE: This amendment updates minimum internal control standards for defining duties for emergency medical services personnel, directing security to report to the general manager, controlling

access to the casino floor, and clarifying that "hand-paid" jackpots refer to electronic gaming device (EGD) jackpots.

(1) The commission shall adopt and publish minimum standards for internal control procedures that in the commission's opinion satisfy 11 CSR 45-9.020, as set forth in *Minimum Internal Control Standards (MICS) Chapter N—Security*, which has been incorporated by reference herein, as published by the Missouri Gaming Commission, 3417 Knipp Dr., PO Box 1847, Jefferson City, MO 65102. Chapter N does not incorporate any subsequent amendments or additions as adopted by the commission on [September 29, 2010] **August 24, 2011**.

AUTHORITY: section 313.004, RSMo 2000, and sections 313.800 and 313.805, RSMo Supp. 2010. Original rule filed June 30, 2010, effective Jan. 30, 2011. Amended: Filed Aug. 25, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 9—Internal Control System**

PROPOSED RULE

11 CSR 45-9.117 Minimum Internal Control Standards (MICS)—Chapter Q

PURPOSE: This rule establishes the minimum internal control standards for Disassociated Persons.

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. The *Minimum Internal Control Standards* may also be accessed at <http://www.mgc.dps.mo.gov>.

(1) The commission shall adopt and publish minimum standards for internal control procedures that in the commission's opinion satisfy 11 CSR 45-9.020, as set forth in *Minimum Internal Control Standards (MICS) Chapter Q—Disassociated Persons*, which has been incorporated by reference herein, as published by the Missouri Gaming Commission, 3417 Knipp Dr., PO Box 1847, Jefferson City, MO 65102. Chapter Q does not incorporate any subsequent amendments or additions as adopted by the commission on August 24, 2011.

AUTHORITY: sections 313.004 and 313.813, RSMo 2000, and sections 313.800 and 313.805, RSMo Supp. 2010. Original rule filed Aug. 25, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, written comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

PROPOSED AMENDMENT

11 CSR 45-17.010 Disassociated Persons List Created—Right to Remove From Premises. The commission is amending sections (1)–(6) and adding a new section (7).

PURPOSE: This amendment updates the class designation and adds a new section for removal of individuals from the List.

(1) There is hereby created a “List of Disassociated Persons” (**List**) which shall consist of those persons who have complied with the **applicable** provisions of 11 CSR 45-17.010 to 11 CSR 45-17.030 and have been placed on such **List** by the director. The **List of Disassociated Persons** is established for the purpose of allowing problem gamblers to formally notify the commission that they no longer intend to visit excursion gambling boats in Missouri **[and that they wish to seek treatment for their gambling problem]**. **The request to be placed on the List shall be made only by the individual seeking to be placed on the List.** Each person seeking placement on the **List of Disassociated Persons** acknowledges that it is his/her responsibility to refrain from visiting excursion gambling boats in Missouri and that by being placed on the **List** s/he shall have a criminal complaint filed against him/her for trespassing if s/he is discovered on an excursion gambling boat by the commission or any Class **[A] B** licensee.

(2) Any Class **[A] B** licensee or its agent or employee that identifies a person present on an excursion gambling boat and has knowledge that such person is included on the **List of Disassociated Persons** shall immediately notify or cause to notify the commission and **[the] a Class [A] B licensee's [senior] security officer on duty.** Once it is confirmed that the person is on the **List**, the Class **[A] B** licensee shall—

(A) Notify the commission agent on duty of the presence of a Disassociated Person on the excursion gambling boat. **The licensee shall remove the Disassociated Person from the excursion gambling boat. After the Disassociated Person has been removed from the excursion gambling boat, the licensee shall cooperate];**

(B) **Refrain from paying out any jackpots or winnings to patrons on the List; and**

(C) **Cooperate** with the commission agent in reporting the inci-

dent to the proper prosecuting authority and request charges be filed under section **313.813** or 569.140, RSMo, for criminal trespassing, a class B misdemeanor.

(3) Any wager placed by a person on the **List of Disassociated Persons** is hereby declared to be an unauthorized transaction and all chips, **tokens** and electronic credits in the possession of a Disassociated Person at the time s/he is discovered on an excursion gambling boat are presumed to be items used in exchange for or to facilitate, through the enactment of this rule, a violation of section 313.805~~[(17)]~~, RSMo, and therefore subject to forfeiture as provided under sections 513.600 to 513.646, RSMo.

(4) A Class **[A] B** licensee or its agent(s) or employee(s) may be disciplined by the commission if—

(A) **[If i]**It can be shown by a preponderance of the evidence that the Class **[A] B** licensee or its employee(s) or agent(s) knew a person on the **List of Disassociated Persons** was present on the excursion gambling boat and, despite such knowledge, failed to follow the procedures required by this rule; or

(B) The Class **[A] B** licensee or its employee(s) or agent(s) failed to follow its procedures for complying with the provisions of 11 CSR 45-17 et[.] seq.

(5) All Class **[A] B** licensees shall have thirty (30) days from the effective date of this rule to submit internal controls that are subject to approval by the commission which set forth the following~~—~~:

(A) The licensee's plan for removing those persons on the **List of Disassociated Persons** from mailing lists advertising its Missouri operation, such as marketing offers, slot club programs, VIP member programs, telemarketing programs, and other such marketing promotions, however this rule shall not be construed to prohibit mass mailings to “Resident”; and

(B) The licensee's plan for denying access by persons on the **List of Disassociated Persons** to—

1. Check cashing privileges, **cash advances, credit/debit card transactions, and wire transfers;**

2. Special club programs such as slot clubs and VIP cards; **[and]**

3. The issuance of credit, if applicable~~.~~; **and**

4. **Gaming privileges, tournaments, promotions, and payment of taxable winnings or prizes.**

(6) Any individual who had been placed on the **List** and who receives any mailing or marketing material prohibited by subsection (5)(A) shall have a continuing obligation to notify **[the licensee and]** the commission of the receipt of such mailing.

(7) After an individual's application for placement on the List has been processed by the commission staff and the individual's name is added to the List, that individual shall remain on the List until such time as the requirements for removal from the List as described in 11 CSR 45-17.060 have been met.

AUTHORITY: sections 313.004, 313.813, and 313.832, RSMo [1994] 2000 and section 313.805, RSMo Supp. 2010. Original rule filed April 18, 1996, effective Dec. 30, 1996. Emergency amendment filed Aug. 28, 1998, effective Sept. 7, 1998, expired March 5, 1999. Amended: Filed Aug. 28, 1998, effective March 30, 1999. Amended: Filed Aug. 25, 2011.

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 any private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

PROPOSED AMENDMENT

11 CSR 45-17.020 Procedure for Applying for Placement on List of Disassociated Persons. The commission is amending section (1), deleting section (2), adding a new section (2), and adding new sections (3)–(6).

PURPOSE: This amendment updates the self-exclusion status, updates the class designations, updates the information provided on the application, includes a process for notification of changes to the information, and updates the application procedure.

(1) The commission may place a person on the List of Disassociated Persons (**List**) if the person has—

(A) Notified the commission in writing of his/her pledge not to visit licensed excursion gambling boats by filing an Application for Placement on the List *[of Disassociated Persons]* with the commission on forms provided by the commission. By filing such application the person acknowledges that s/he is a problem gambler *[and will seek treatment for his/her condition]*. The applicant agrees that placement on the *[[List]* is for life and the commission is not authorized to remove a person from the *[[List]*, **except as provided in 11 CSR 45-17.060**. In addition, the applicant acknowledges that licensees may use the information provided in the application to notify its affiliated gaming operations that the applicant is a problem gambler. Therefore, the applicant may be excluded from casinos in other jurisdictions as a result of their request to be placed on the *[Missouri] List. [of Disassociated Persons. Furthermore, by filing such application, t/The person understands [that], by filing such application, s/he is granting the commission and all Class A and B licensees the right to eject them from the premises of all excursion gambling boats and [that] s/he may be arrested for trespassing if discovered on an excursion gambling boat. Furthermore, the applicant agrees that once placed on the List [of Disassociated Persons] if s/he is discovered on an excursion gambling boat, [all chips, tokens and electronic credits] jackpots or winnings in his/her possession at the time of the discovery will be forfeited. Such application shall include:*

1. The person's full name and all aliases;
2. A physical description including height, weight, hair and eye color, *[skin color] ethnic origin*, and any other noticeable physical characteristics;
3. The person's *[occupation and]* current home and *[business] email address(es)* and phone numbers;
4. Social Security *[n/]*Number, **when voluntarily provided in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C. section 552a) or International Identification Number;**
5. Date of birth;
6. A statement that the applicant believes s/he is a problem gambler;
7. A photograph suitable for the commission and Class *[A] B* licensees to use in identifying the person requesting to be placed on the List *[of Disassociated Persons; and];*

8. The person's occupation and place of employment, if access to excursion gambling boats is necessary for the purpose of carrying out the duties of the individual's employment, per 11 CSR 45-17.015;

9. Interpreter information and affirmation, if applicable; and

[8.]10. Other information as deemed necessary by the commission;

(B) *[Had such application verified by a member of the commission's enforcement staff; and] The commission may convert the application to a format that may be filled in and signed electronically;*

(C) Signed an *[affidavit] acknowledgement* verifying *[that] s/he* wishes to be placed on the commission's List *[of Disassociated Persons, that] and* the commission is specifically authorized and requested to release all contents of the person's application to all Class *[A] B* licensees and their agents and employees; and

[[D] Neither this Chapter, 11 CSR 45-17, nor any of the rights, duties, or obligations established hereunder, shall create any cause of action, right of action, claim, or other right whatsoever in favor of any person other than the commission against the state of Missouri, the commission, any Class A licensee or any of its agents or employees; and]

[[E]](D) Any person applying to be placed on the List [of Disassociated Persons] shall execute a full and complete Waiver/Release on a form provided by the commission releasing the commission, all Class A and B licensees, and all their affiliates and agents as identified in 11 CSR 45-17.040 from any liability associated with acts or omissions relating to the provisions of 11 CSR 45-17 et.] seq. [as may be amended from time to time.]

[[2] Upon receipt of information from the commission that a person has been placed on the List of Disassociated Persons, all Class A licensees shall issue to such disassociated person a notice of trespass, in a form approved by the commission, to be delivered via U.S. mail. The licensee shall provide the commission with a copy of such notice.]

(2) The application shall be verified and reviewed as designated by the executive director of the commission.

(3) An individual applying for placement on the List agrees to forfeit all points or complimentaries earned by the individual before the individual completes the application for placement on the List. Points or complimentaries refer to credits earned by a person under the terms of a Class B licensee's or its agent's marketing program per 11 CSR 45-5 as approved by the commission and shall include, but not be limited to:

- (A) Food complimentaries;
- (B) Coupons for chips, cash, or electronic gaming device (EGD) credits;
- (C) Hotel complimentaries; or
- (D) Any other cash or non-cash benefit assigned to the player's account.

(4) Neither this chapter, 11 CSR 45-17, nor any of the rights, duties, or obligations established herein, shall create any cause of action, right of action, claim, or other right whatsoever in favor of any person other than the commission against the state of Missouri, the commission, any Class A or B licensee, or any of its agents or employees.

(5) The Disassociated Person shall notify the commission of any changes to the information provided in subsection (1)(A) within thirty (30) days of a change on forms provided by the commission.

AUTHORITY: sections 313.004, 313.813, and 313.832, RSMo

[1994] 2000 and section 313.805, RSMo Supp. 2010. Original rule filed April 18, 1996, effective Dec. 30, 1996. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 25, 2011.

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 any private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

PROPOSED AMENDMENT

11 CSR 45-17.030 Procedure for Entry of Names onto List of Disassociated Persons. The commission is amending sections (1)–(3).

PURPOSE: This amendment updates the Class designation and updates the notice procedure.

(1) Upon filing of an application for placement on the List of Disassociated Persons (**List**), the director may file a Notice of Placement on the List [of Disassociated Persons]. Such notice shall be a closed record [pursuant] to the extent provided for in sections 313.847 and 610.021, RSMo; provided [that such] the application and notice may be disclosed to all Class [A] B licensees and their agents and employees.

(2) The director shall deliver a copy of the Notice of Placement on the List [of Disassociated Persons] to the applicant via regular U.S. mail to the [home] address contained on the application, or other address provided by the applicant, or by appointment. The applicant is deemed to be placed on the List [of Disassociated Persons] at the time the person executes the application for placement on the List [of Disassociated Persons], not at the time such notice is delivered to the applicant.

(3) Should the director find that an applicant does not qualify for placement on the List [of Disassociated Persons], s/he shall so notify the applicant [by the procedure set forth in section (2) of this rule] via regular U.S. mail to the address contained on the application, or other address provided by the applicant, or by appointment.

AUTHORITY: sections 313.004 and 313.813, RSMo [1994] 2000 and section 313.805, RSMo Supp. 2010. Original rule filed April 18, 1996, effective Dec. 30, 1996. Emergency amendment filed Aug. 28, 1998, effective Sept. 7, 1998, expired March 5, 1999. Amended: Filed Aug. 28, 1998, effective March 30, 1999. Amended: Filed March 1, 2000, effective Sept. 30, 2000. Amended: Filed Aug. 25, 2011.

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 any private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

PROPOSED AMENDMENT

11 CSR 45-17.040 Confidentiality of List of Disassociated Persons. The commission is amending sections (1)–(3).

PURPOSE: This amendment updates the class designations and updates the confidentiality requirements and procedures.

(1) The director shall notify each Class [A] B licensee of the placement of any person on the List of Disassociated Persons (**List**), or the removal of any person from the List per 11 CSR 45-17.060, and may disclose to the Class [A] B licensee and any of its agents or employees any or all information contained on the person's application(s).

(2) Each Class [A] B licensee shall submit to the commission a plan for the dissemination of the information regarding persons placed on the List, as well as persons who have been removed from the List. The plan shall be designed to safeguard, as best as is reasonably possible, the confidentiality of the information but shall include dissemination to at least the general manager[,]; casino manager[,]; and all ticketing/player's club, cage, security, and surveillance personnel. Licensees may not disclose the name of, or any information about, a person who has been placed on or removed from the List to anyone other than employees and agents of the licensee whose duties and functions require access to the information. The plan must be approved by the commission. All information disclosed to any Class [A] B licensee regarding anyone placed on or removed from the List [of Disassociated Persons] shall be deemed a closed record[,]; however, the information may be disclosed as authorized by the individual seeking placement on the [//]List, by law and through the provisions contained in this chapter, 11 CSR 45-17.

(3) Class [A] B licensees may disclose the information contained in the applications to its affiliates as defined in subsection (A) of this section, or agents of such affiliates. [provided that such disclosure is] The disclosed information shall be used solely for the limited purposes of assisting in the administration of problem and responsible gaming programs and allowing the affiliate or agent of the affiliate to determine whether to deny a person on the List [of Disassociated Persons] access to areas where gambling games are played. All [such] disclosures must be made in accordance with procedures approved by the commission. Written approval of the executive director of the commission is required prior to disclosing this information. The Class B licensee is responsible for maintaining the confidentiality of any information disclosed. Such

information shall not be used to deny services located at non-gaming properties to a person on the [Disassociated Persons] List [services that are not associated with gambling games such as restaurant service, hotel service or other non-gaming amenities].

AUTHORITY: sections 313.004 and 313.813, RSMo 2000, and sections 313.805[1, RSMo1994] and 610.021, RSMo Supp. [1998] 2010. Original rule filed April 18, 1996, effective Dec. 30, 1996. Amended: Filed Aug. 28, 1998, effective March 30, 1999. Amended: Filed March 30, 1999, effective Nov. 30, 1999. Amended: Filed Aug. 25, 2011.

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 any private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

PROPOSED RESCISSION

11 CSR 45-17.050 Removal From List of Disassociated Persons Prohibited. This rule stated that there was no procedure for removal from the List of Disassociated Persons because the commission believed that dealing with a gambling problem required lifetime treatment.

PURPOSE: This rule is being rescinded to provide an option for removing a name from the List.

AUTHORITY: sections 313.004 and 313.805, RSMo 1994. Original rule filed April 18, 1996, effective Dec. 30, 1996. Emergency amendment filed Aug. 28, 1998, effective Sept. 7, 1998, expired March 5, 1999. Amended: Filed Aug. 28, 1998, effective March 30, 1999. Rescinded: Filed Aug. 25, 2011.

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 any private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

PROPOSED RULE

11 CSR 45-17.060 Procedure to Discontinue Self-Exclusion on the List of Disassociated Persons

PURPOSE: This rule establishes the procedure to discontinue self-exclusion on the commission's List of Disassociated Persons.

(1) Notwithstanding the provisions of 11 CSR 45-17.070, at any time after five (5) years from the original date of placement on the List of Disassociated Persons (List), a Disassociated Person (DAP) may petition the commission for removal from the List. In order to be eligible for removal from the List, a person shall execute and submit, in a manner acceptable to the commission, an application for removal on a form provided by the commission. Such application shall include:

- (A) The person's full name and all aliases;
- (B) The person's current home address, email address, and phone number(s);
- (C) Social Security Number, when voluntarily provided in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C. section 552a) or International Identification Number;
- (D) Date of birth and gender;
- (E) A statement that the DAP wishes to be removed from the List and accepts full responsibility for any adverse consequences which may result from removal;
- (F) A photograph suitable for the commission to use in identifying the person requesting to discontinue self-exclusion on the List;
- (G) A signed acknowledgement verifying s/he wishes to be removed from the List, authorizing the commission to release all contents of the person's application for removal to all Class B licensees and their agents and employees;
- (H) A statement acknowledging that the individual understands each licensee may choose to continue exclusion or reinstate privileges at the licensee's sole discretion; and
- (I) Other information as deemed necessary by the commission.

(2) The application shall be verified and reviewed as designated by the executive director of the commission.

(3) Once an application for removal from the List has been deemed complete and valid, the director shall file a Notice of Removal from the List.

(4) The director shall provide a copy of the Notice of Removal from the List to the applicant via regular U.S. mail to the address contained on the application, other address provided by the applicant, or by appointment.

(5) Should the director find an applicant does not qualify for removal from the List, s/he shall so notify the applicant via regular U.S. mail to the address contained on the application, other address provided by the applicant, or by appointment.

(6) Each Class B licensee shall file with the commission a letter stating its policy regarding whether persons removed from the List will be allowed access to its property.

(A) If a Class B licensee adopts a policy to allow prior DAPs to patronize its establishment, any prior notice of trespass is voided allowing prior DAPs to gamble at the property. If a casino has cause to exclude a prior DAP, a separate notice of trespass shall be provided to that individual to notify the individual of his/her excluded status.

(B) If a Class B licensee adopts a policy to continue the exclusion of all persons removed from the List, the Class B licensee shall not

cash checks, process cash advances, enroll these individuals in any tournaments or promotion, or provide marketing materials to these individuals except in mass mailings to “resident” or the like.

(7) Neither the rules in 11 CSR 45-17, nor any of the rights, duties, or obligations established herein, shall create any cause of action, right of action, claim, or other right whatsoever in favor of any person other than the commission against the state of Missouri, the commission, any Class A or B licensee, or any of its agents or employees.

AUTHORITY: sections 313.004, 313.813, and 313.847, RSMo 2000, and sections 313.805 and 610.021, RSMo Supp. 2010. Original rule filed Aug. 25, 2011.

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 any private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission’s Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

PROPOSED RULE

11 CSR 45-17.070 Procedure to Re-Establish Self-Exclusion on the List of Disassociated Persons

PURPOSE: This rule establishes the procedure for permanent self-exclusion on the List of Disassociated Persons (List) for individuals who have previously chosen to be removed from the commission’s List.

(1) A former Disassociated Person who has had his/her name removed from the List of Disassociated Persons (List) may request at any time to re-establish his/her self-exclusion on the List one (1) time by submitting a new application for placement on the List per the procedures provided in 11 CSR 45-17.030. Re-establishing self-exclusion results in permanent placement on the List. The Disassociated Person may not again request removal. The commission shall inform all such applicants that this self-exclusion is for life and there is no process for removal from the List.

AUTHORITY: sections 313.004, 313.813, and 313.847, RSMo 2000, and sections 313.805 and 610.021, RSMo Supp. 2010. Original rule filed Aug. 25, 2011.

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 any private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 2, 2011, at 10:00 a.m., in the Missouri Gaming Commission’s Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

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

PROPOSED RESCISSION

12 CSR 10-23.070 Regulation of Dealer License Plates. The director of the Department of Revenue is charged with the responsibility of regulating the license plates issued to dealers. This rule established safeguards to prevent unauthorized use of dealer plates.

PURPOSE: This rule is being rescinded because it is outdated and the statutory references have been deleted. Additionally, 12 CSR 10-26.060 Dealer License Plates/Certificates of Number contains current regulations for dealer license plates.

AUTHORITY: sections 301.140, 301.251, and 301.253, RSMo 1986. Original rule filed April 14, 1980, effective Sept. 12, 1980. Amended: Filed March 26, 1982, effective July 12, 1982. Amended: Filed Sept. 16, 1985, effective Jan. 26, 1986. Rescinded: Filed Aug. 31, 2011.

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

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

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

**Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees’ Retirement Fund
Chapter 2—Membership and Benefits**

PROPOSED AMENDMENT

16 CSR 50-2.035 Payment of Benefits. The board is amending subsections (1)(F) and (2)(A) and section (4).

PURPOSE: This amendment clarifies survivor annuitants and beneficiary designations.

(1) Method of Payment. Prior to his or her annuity starting date, each participant shall be offered the following optional methods of payment, in addition to the normal form of benefit. Any benefits payable under such optional methods of payment shall be the actuarial equivalent of the normal form of benefit:—

(F) Level Income Option—Joint and Survivor.

1. An annuity, whereby a monthly installment shall be paid to the participant during his or her lifetime and thereafter in the percentage (either fifty (50), seventy-five (75), or one hundred (100)) of

such monthly amount, as elected by the participant, to his or her survivor annuitant during his or her lifetime, on the *[last]* first day of each calendar month in which the participant or his or her survivor annuitant shall have lived the entire **preceding calendar month**. The annuity shall be adjusted so that the monthly annuity payable for the months ending immediately before the first day of the month after the date the participant attains age sixty-two (62) is approximately equal to the sum of i) the monthly adjusted annuity payable for the month subsequent to the month in which the participant reaches age sixty-two (62) and ii) the monthly Social Security benefit payable to the participant at age sixty-two (62). If the participant dies before he or she reaches age sixty-two (62), the survivor annuitant's benefit shall be adjusted on the first day of the month after the date on which the participant would have reached age sixty-two (62) in the manner that the participant's annuity would have been adjusted on such date.

2. Notwithstanding anything in the preceding paragraph to the contrary, if the monthly benefit payable to the participant under this form beginning with the month after the participant's sixty-second birthday is zero (0), then the **provisions of this paragraph shall apply and the monthly adjusted annuity with respect to months ending immediately before the first day of the month after the date the participant attains age sixty-two (62) shall be a period-certain annuity, commencing on the participant's annuity starting date, and ending on the date immediately before the first day of the month after the participant attains (or would have attained) age sixty-two (62). If the participant dies before attaining age sixty-two (62), then the remaining payments under the form shall be made to the participant's survivor annuitant (if surviving), or in a single sum to the participant's estate, if the survivor annuitant predeceases the participant. Alternatively, in the event the participant's survivor annuitant dies before the participant (and the monthly benefit payable under this form beginning with the month after the participant's sixty-second birthday is zero (0)), the participant may complete a new beneficiary designation form which shall apply to the remaining benefit which may become payable under this paragraph. If the survivor annuitant survives the participant, but dies before the participant's sixty-second birthday, then the remaining payments under the form shall be made to the survivor annuitant's estate in a single sum. In the case where the survivor annuitant and the participant die simultaneously before the participant's sixty-second birthday, then the remaining payments under the form shall be made in a single sum to the participant's estate.**

(2) Election of Payment Method. A payment option shall be elected, changed, or revoked by the participant, his or her guardian, or attorney-in-fact, by written notice filed with the board during the election period specified in section (3) below; provided, however:/—

(A) A survivor annuitant under an option may not be changed after an election has been received by the board (or by its designee), **provided that a participant may complete a new beneficiary designation form changing an annuitant or beneficiary with respect to a period-certain form to the extent provided in subsection (1)(D) and paragraph (1)(F)2., in accordance with the form and manner specified by the board or its designee for such purpose;**

(4) Payments after Death of Survivor Annuitant. In the event a participant has chosen an optional form of payment which provides for a continuing payment to a survivor annuitant after the death of the participant in which the participant received a reduced annuity during his or her lifetime and the participant's survivor annuitant precedes the participant in death, the participant's benefit shall revert, effective the next month following the death of the participant's survivor annuitant, to an amount equal to his or her normal annuity at the time of the annuity starting date plus any cost-of-living or other increases that the participant may have received prior to the survivor annuitant's death. Notwithstanding the preceding sentence, if the participant elected the Level Income Option—Joint and Survivor, **pursuant to which the monthly benefit payable to the participant**

under this form beginning with the month after the participant's sixty-second birthday is greater than zero (0), and the participant's survivor annuitant precedes the participant in death, the participant's benefit shall revert to the benefit he or she would have received had he or she elected the Level Income Option—Life Only. It shall be the participant's duty to inform the board or its designee of the death of such a survivor annuitant.

AUTHORITY: section 50.1032, RSMo 2000. Original rule filed July 29, 1997, effective Jan. 30, 1998. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 24, 2011.

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 County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 1100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions**

PROPOSED AMENDMENT

20 CSR 1100-2.040 Loans. The director is amending sections (2), (3), and (4).

PURPOSE: This amendment specifies the limits placed on loans to certain credit union officials pursuant to section 370.310, RSMo, and makes minor grammatical and administrative changes.

(2) No member of the board of directors or of the supervisory or credit committee shall enter into loan contracts with the credit union where the *[total loans outstanding at any one (1) time shall exceed twenty-five thousand dollars (\$25,000), except for loans secured by mortgages on primary and secondary borrower-occupied residences, negotiable securities, licensed motor vehicles (licensed motor vehicle shall be defined as a noncommercial vehicle licensed to operate on a highway or waterway) or shares]* terms are more favorable than those of loans extended to other member-borrowers. It is recommended that employees of the credit union shall be subject to similar loan restrictions.

(3) In processing the loan application of a member of the board of directors or of the credit or supervisory committee where the official makes application to the credit union of which *[s/he]* the member is an official, the loan application must be approved by the loan officer in the manner provided *[in the Credit Union Act]* by law and the bylaws of the credit union adopted and where the loan is so approved.

(4) When a member of the board of directors or of the credit or supervisory committee makes application to the credit union of which *[s/he]* the member is an official—

(C) Any loan to a member of the board of directors or to a member of the supervisory or credit committee that becomes sixty (60) days or more delinquent shall be reported to the board of directors by the president or manager at the next board meeting following the discovery of the delinquency. That report shall be included in the board minutes. A copy of this report shall be forwarded [by mail] to the director of the Division of Credit Unions. The board then shall act to make appropriate arrangements to bring the loan(s) current. Arrangements to bring the loan current shall be on terms no more favorable than those available to other members and be acceptable to the director of the Division of Credit Unions. In no event shall a loan to an official become more than ninety (90) days delinquent nor shall any loan remain thirty (30) days or more delinquent for more than one hundred eighty (180) consecutive days;

(D) No member of the board of directors or [member] of the credit or [the] supervisory committee shall, in any manner, directly or indirectly, [shall] participate in the deliberation of any question affecting [his/her] the member's application for a loan; and

AUTHORITY: section 370.100, RSMo 2000, and section 370.310, SS for SB 306, First Regular Session, Ninety-sixth General Assembly, 2011. This rule originally filed as 4 CSR 100-2.040. Original rule filed Jan. 15, 1968, effective Jan. 25, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 29, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Division of Credit Unions, Ken Bonnot, Director, PO Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

**Division 1100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions**

PROPOSED AMENDMENT

20 CSR 1100-2.055 Allowance for Loan Loss. The director is amending section (2).

PURPOSE: This amendment revises requirements related to a regular reserve pursuant to section 370.320, RSMo.

(2) The allowance for loan loss account shall represent an estimate of loan losses in the entire loan portfolio, including estimated inherent losses, in conformity with generally accepted accounting principles and meet regulatory requirements for full and fair disclosure. The allowance account will be adjusted at least quarterly or more often as required. All adjustments to increase or decrease the allowance account will be made to the provision for loan loss expense. All charged off loans and recoveries will be to the allowance account. [In view of the legal requirement to maintain a regular reserve at the end of each dividend period an amount equal to the net amount charged to provision for loan loss expense will be debited to regular reserve and credited to the undivided earnings account.]

AUTHORITY: section 370.100, RSMo [1986] 2000 and section 370.320, SS for SB 306, First Regular Session, Ninety-sixth General Assembly, 2011. This rule originally filed as 4 CSR 100-2.055. Original rule filed Oct. 17, 1985, effective Jan. 26, 1986. Amended: Filed Nov. 25, 1991, effective April 4, 1992. Moved to 20 CSR 1100-2.055, effective Aug. 28, 2006. Amended: Filed Aug. 29, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Division of Credit Unions, Ken Bonnot, Director, PO Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

**Division 1100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions**

PROPOSED AMENDMENT

20 CSR 1100-2.075 Mergers and Consolidations. The director is amending sections (5), (9), (13), (15), (16), (20), (24), (27), (29), and (30).

PURPOSE: This amendment specifies certain procedures state-chartered credit unions must follow in order to complete a merger or consolidation that involves a Missouri state-chartered credit union pursuant to section 370.353, RSMo, and makes minor grammatical and administrative changes.

(5) An application for approval of the merger will be complete when the following information is submitted to the director:

(D) The proposed Notice of Special or Annual Meeting of the members of the merging credit union;

(E) A copy of the written or electronic ballot [form] to be sent to the members of the merging credit union;

(G) [A request for a waiver of the requirement that the plan be voted on by the members of the merging credit unions, as allowed by section 370.353(3), if the credit union seeking the waiver is in financial difficulty, if its field of membership is being lost or substantially reduced, or if it has only limited potential of growth] If the credit union is seeking a waiver pursuant to section 370.353.3, RSMo, a request for such waiver.

(9) Upon approval of the plan of merger, the board of directors of the merging credit union shall direct, by resolution, that the plan be submitted to a vote at a meeting to be called within sixty (60) days of the approval by the director. Advance notice of the meeting shall be [given by letter addressed] mailed or delivered to each member [at the last known address currently reflected on the books] of the credit union. This notice must be sent no more than thirty (30) days and no less than fourteen (14) days prior to the meeting at which the special merger will be voted on. The notice must:—

(A) Specify the purpose of the meeting and the date, time, and place;

(B) Contain a summary of the merger plan, including but not necessarily limited to current financial statements for each credit union, a consolidated financial statement for the continuing credit union, analyses of share values, explanation of any proposed share adjustments, **and** explanation of any changes relative to insurance, such as life savings and loan protection insurance and insurance of member accounts;

(E) Inform the members that they have the right to vote on the merger proposal in person at the meeting, **or** by written **or electronic** ballot to be received no later than the date and time announced for the meeting called for that purpose, or by an alternative method that is approved by the director. **All members should be provided the opportunity to vote without being required to attend the meeting;** and

(13) The membership of the merging credit union shall have the ability to complete a **written or electronic** ballot *[by mail]*. This *[mail]* ballot may be in the form of an absentee ballot request that accompanies the notice of meeting or in the form of an actual ballot *[that is to be mailed]*. **All members should be provided the opportunity to vote without being required to attend the meeting where the merger plan is voted on.**

(15) The director may waive any membership meeting required above upon the request of the board of directors of the merging credit union *[if the credit union seeking the waiver is in financial difficulty, if its field of membership is being lost or substantially reduced, or if it has only limited potential of growth]* pursuant to section 370.353.3, RSMo.

(16) Upon approval of the merger plan by the membership, if applicable, the certification of vote will be completed, signed, and submitted, along with necessary amendments to the surviving credit union's bylaws, to the director for final approval. If applicable, the director will forward *[his/her]* the approval to the National Credit Union Administration for insurance approval. Upon the National Credit Union Administration's final approval, a certificate of merger will be issued to the surviving credit union. Necessary amendments to the surviving credit union's bylaws shall also be submitted at this time.

(20) An application for approval of the consolidation will be complete when the following information is submitted to the director:

(E) A copy of the **written or electronic** ballot *[form]* to be sent to the members;

(G) *[A request for a waiver of the requirement that the plan be voted on by the members of each of the consolidating credit unions, as allowed by section 370.353(3), RSMo, if the credit union seeking the waiver is in financial difficulty, if its field of membership is being lost or substantially reduced, or if it has only limited potential of growth]* **If the credit union is seeking a waiver pursuant to section 370.353.3, RSMo, a request for such waiver.**

(24) Upon approval of the plan of consolidation, the board of directors shall direct, by resolution, that the plan be submitted to a vote at a meeting to be called within sixty (60) days of the approval by the director. Advance notice of the meeting shall be *[given by letter addressed]* **mailed or delivered** to each member *[at the last known address currently reflected on the books]* of the credit union. This notice must be sent no more than thirty (30) days and no less than fourteen (14) days prior to the meeting at which the consolidation will be voted on. The notice must¹—

(A) Specify the purpose of the meeting and the date, time, and place;

(B) Contain a summary of the consolidation plan, including but not necessarily limited to current financial statements for each credit union, a consolidated financial statement for the new credit union, analyses of share values, explanation of any proposed share adjust-

ments, **and** explanation of any changes relative to insurance, such as life savings and loan protection insurance and insurance of member accounts;

(E) Inform the members that they have the right to vote on the consolidation proposal in person at the meeting, **or** by written **or electronic** ballot to be received no later than the date and time announced for the meeting called for that purpose, or by an alternative method that is approved by the director. **All members should be provided the opportunity to vote without being required to attend the meeting;** and

(27) The membership shall have the ability to complete a **written or electronic** ballot *[by mail]*. This *[mail]* ballot may be in the form of an absentee ballot request that accompanies the notice of meeting or in the form of an actual ballot *[that is to be mailed]*. **All members should be provided the opportunity to vote without being required to attend the meeting where the consolidation plan is voted on.**

(29) The director may waive any membership meeting required above upon the request of the board of directors of any of the consolidating credit unions *[if the credit union(s) seeking the waiver is in financial difficulty, if its field of membership is being lost or substantially reduced, or if it has only limited potential of growth]* pursuant to section 350.353.3, RSMo.

(30) Upon approval of the consolidation plan by the membership, if applicable, the certification of vote will be completed, signed, and submitted, along with necessary amendments to the bylaws, to the director for final approval. If applicable, the director will forward *[his/her]* the approval to the National Credit Union Administration for insurance approval. Upon the National Credit Union Administration's final approval, a certification of consolidation will be issued.

AUTHORITY: sections 370.351, 370.352, 370.354, 370.355, 370.356, and 370.357, RSMo 2000, and section 370.353, SS for SB 306, First Regular Session, Ninety-sixth General Assembly, 2011. Original rule filed June 14, 2006, effective Dec. 30, 2006. Amended: Filed Aug. 29, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Division of Credit Unions, Ken Bonnot, Director, PO Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 1100—Division of Credit Unions Chapter 2—State-Chartered Credit Unions

PROPOSED RULE

20 CSR 1100-2.240 Rules of Procedure

PURPOSE: This rule establishes procedures for the hearings required by sections 370.157–370.165, RSMo, that establish procedures for the removal or suspension of officers and directors of credit unions.

(1) Definitions. As used in these rules, except as otherwise required by the context—

(A) Director shall mean the director of the Division of Credit Unions;

(B) Hearing officer shall mean the director or such other person designated by the director to conduct hearings; and

(C) Respondent shall mean the officer, director or other person against whom the director proposes to take the action authorized by sections 370.157–370.165, RSMo.

(2) Records. The director will maintain a complete record of all proceedings under this rule. All such records, unless expressly indicated otherwise, shall be maintained as confidential records of the Division of Credit Unions.

(3) Pleadings. Pleadings and briefs shall be bound at the top, shall be typewritten paper eight and one-half inches by fourteen inches (8 1/2" × 14") in size and exhibits annexed to them and, wherever practical, folded to that size. Typing shall be on one (1) side of the paper only and shall be double spaced except that footnotes and quotations in excess of a few lines may be single spaced.

(4) Title and Number. Pleadings, briefs, and other documents shall show the title of the proceeding before the director and shall show the name and address of the attorney, if any, on the flyleaf or at the end of the document.

(5) Commencement of Action. The hearing process is begun by the delivery to the respondent of a notice of charges which shall set forth the facts constituting the basis for the proposed action. Attached to the notice shall be a copy of the proposed order or action, a notice of the time and place at which the hearing will be held, and a stipulation of consent by which the respondent may consent to the order or action without a hearing.

(6) Waiver of Procedures. The respondent, prior to or at the time of hearing, may waive the calling of witnesses, the cross-examination of witnesses, the filing of briefs or other documents, or any other procedures. The respondent may elect to proceed by presenting oral arguments and documentary evidence supporting its position.

(7) Stipulations. The respondent may stipulate to any or all of the facts set forth in the notice of charges. Such procedure is desirable wherever practical.

(8) Prepared Testimony. With the approval of the hearing officer, a witness may read testimony into the record and direct examination. Before any prepared testimony is read, the witness, unless excused by the hearing officer, shall deliver copies to the hearing officer, to the director's attorney, and to the court reporter if the matter is recorded by a court reporter. If the hearing officer deems that substantial saving of time will result without prejudice to the objectives of the hearing, prepared testimony may be copied into the record without having the witness read it aloud, provided, however, that the witness shall be available for cross-examination on any topic germane to the proceedings.

(9) Costs. The hearing will be recorded by tape recorder unless the director or respondent requests the appointment of a court reporter to transcribe the proceedings. In the event a court reporter is employed, the costs of the original and one (1) copy of the transcript shall be taxed against the respondent.

AUTHORITY: sections 370.157 to 370.165, SS for SB 306, First Regular Session, Ninety-sixth General Assembly, 2011. Original rule filed Aug. 29, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Division of Credit Unions, Ken Bonnot, Director, PO Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED RULE

20 CSR 2220-2.675 Standards of Operation/Licensure for Class L Veterinary Pharmacies

PURPOSE: This rule defines standards for a Class L veterinary pharmacy.

(1) A Class A or a Class L pharmacy permit shall be required for any entity engaged in the sale, dispensing, or filling of a legend drug for use in animals that must only be dispensed by prescription under state or federal law. For purposes of this rule, a legend drug shall be defined as provided by 21 USC section 353.

(2) Class A Pharmacies. Class A permit holders shall comply with all laws/rules applicable to Class A pharmacies, provided a Class A pharmacy shall comply with sections (7) and (8) of this rule when legend drugs are dispensed for animal use.

(3) Class L Pharmacies. A Class L pharmacy shall dispense, sell, or provide legend drugs only for animal use. Except as otherwise provided in this rule, a Class L pharmacy shall comply with all applicable state and federal pharmacy and controlled substance laws/rules including, but not limited to, all applicable provisions of Chapter 338, RSMo, and the rules of the board.

(4) Pharmacy Operations. A Class L pharmacy shall comply with 20 CSR 2220-2.010, with the following allowed modifications:

(A) The pharmacy permit shall be displayed in plain view at the pharmacy location;

(B) The pharmacy shall maintain sufficient space, equipment, and storage capabilities as necessary to carry out its operations;

(C) Legend drugs shall be properly identified and stored in a defined area within the pharmacy;

(D) Legend drugs shall be stored in a clean and sanitary designated area and within temperature requirements as provided for by the manufacturer or the latest edition of the United States Pharmacopoeia (USP);

(E) The pharmacy shall maintain a current reference manual related to veterinary drugs that complies with 20 CSR 2220-2.010(1)(D);

(F) Appropriate sewage disposal must be available within the pharmacy and a hot and cold water supply shall be accessible to pharmacy staff. If compounding is performed, the hot and cold water

supply shall be located within the pharmacy;

(G) Pharmacy compounding shall comply with 20 CSR 2220-2.200, 20 CSR 2220-2.400, and all other applicable provisions of state/federal law;

(H) All dispensing errors shall be documented in the pharmacy's records;

(I) Animals shall not be allowed in the designated area where legend drugs are stored or maintained; and

(J) The pharmacist-in-charge shall be notified within twenty-four (24) hours after a dispensing error is learned by pharmacy staff. Documentation of notification shall be maintained in the pharmacy's prescription records.

(5) A Class L pharmacy shall designate a pharmacist-in-charge as required by 20 CSR 2220-2.010(1)(M). The pharmacist-in-charge shall be responsible for supervising pharmacy operations and ensuring compliance with the provisions of this rule and all applicable state/federal laws. Except as otherwise provided in this rule, the pharmacist-in-charge shall also—

(A) Ensure legend drugs are only sold, dispensed, or filled by the pharmacy for animal use;

(B) Ensure legend drugs have been ordered/prescribed by an authorized prescriber; and

(C) Maintain a policy and procedure manual for pharmacy operations. The policy and procedure manual shall be reviewed annually by the pharmacist-in-charge. The manual shall be available for inspection by board personnel and shall include policies and procedures for:

1. Accepting, compounding, dispensing, or filling prescriptions;

2. Accepting, dispensing, or filling prescriptions in the pharmacist's absence;

3. Drug storage and security;

4. Handling drug recalls;

5. Procedures for offering patient/client counseling;

6. If applicable, procedures for dispensing or providing prescriptions in a pharmacist's absence pursuant to section (8) of this rule;

7. Contacting the pharmacist-in-charge for consultation during the pharmacy's business operations or in the event of an emergency; and

8. Reporting and handling dispensing errors. The pharmacist-in-charge shall be notified of a dispensing error within twenty-four (24) hours after the error is learned by pharmacy staff. Policies/procedures shall include the manner of notification.

(6) A pharmacist shall not be required to be physically present on-site during the business operations of a Class L pharmacy if the pharmacist-in-charge reviews the activities and records of the pharmacy operations on a monthly basis to ensure compliance with this rule. This exemption shall not apply if the pharmacy sells, dispenses, or otherwise provides controlled substances. The date of the pharmacist-in-charge review shall be documented and maintained at the pharmacy.

(7) To be valid for purposes of dispensing, legend drug prescriptions for animal use shall conform to all requirements of sections 338.056 and 338.196, RSMo, and shall contain the following:

(A) The date issued;

(B) The client's/owner's name and the class, species, or identification of the animal, herd, flock, pen, lot, or other group being treated;

(C) The prescriber's name, if an oral prescription, or signature, if a written prescription;

(D) Name, strength, and dosage form of drug and directions for use;

(E) The number of refills, when applicable;

(F) The quantity prescribed in weight, volume, or number of units;

(G) The address of the prescriber and the patient when the prescription is for a controlled substance;

(H) Whether generic substitution has been authorized;

(I) The prescriber's Drug Enforcement Administration (DEA) number when the prescription is for a controlled substance; and

(J) Controlled substance prescriptions shall comply with all requirements of federal and state controlled substance laws.

(8) Dispensing. A Class L pharmacy may accept, fill, enter, dispense, or otherwise provide non-controlled legend drugs for animal use in the absence of a pharmacist, provided the pharmacist-in-charge shall review the prescription record for each such prescription on a monthly basis. The review shall be documented as provided in section (6) of this rule. For purposes of 20 CSR 2220-2.010(3), the dispensing pharmacist shall be identified as the pharmacist-in-charge unless dispensed by another licensed pharmacist.

(A) Legend drugs may only be compounded for use in animals when a pharmacist is present on site.

(B) Clients must be offered an opportunity to consult with a pharmacist as required by 20 CSR 2220-2.190. If the pharmacist is not present on site, a written offer to counsel with a contact telephone number for a pharmacist shall be supplied with the medication.

(9) Labeling. Prescriptions must be labeled as required by section 338.059, RSMo. Prescription labels may be manually written or numbered and shall include:

(A) The class, species, or identification of the animal, herd, flock, pen, lot, or other group being treated; and

(B) If applicable, the veterinarian's specified withdrawal, withholding, or discard time for meat, milk, eggs, or any other food which might be derived from the treated animal(s).

(10) Records. Class L pharmacy records shall be maintained as required by Chapter 338, RSMo, and the rules of the board, including 20 CSR 2220-2.018 and 20 CSR 2220-2.080.

(A) The information specified in section (7) of this rule shall be required and recorded on all handwritten, telephone, oral, and electronically produced prescriptions that are processed for dispensing by a pharmacist/pharmacy. If applicable, prescription records shall also include the veterinarian's specified withdrawal, withholding, or discard time identified in section (9) of this rule.

(B) Any change or alteration made to the prescription dispensed based on contact with the prescriber shall be documented in the pharmacy's prescription records. This shall include, but is not limited to, a change in quantity, directions, number of refills, or authority to substitute a drug.

(C) The pharmacy's prescription records shall identify any prescription dispensed in a pharmacist's absence pursuant to subsection (8)(B) of this rule.

(11) A Class L pharmacy shall comply with all applicable state or federal controlled substance laws.

(12) The provisions of this rule shall not be applicable to the sale of medication for use in animals that may lawfully be dispensed without a prescription nor shall this rule be construed to require licensure for entities solely engaged in selling, dispensing, or providing medications authorized for dispensing without a prescription.

(13) The provisions of this rule shall not prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding, administering, prescribing, or dispensing of their own prescriptions, medicine, drug, or pharmaceutical product to be used for animals.

AUTHORITY: sections 338.056, 338.059, 338.196, 338.250, 338.280, and 338.343, RSMo 2000, and sections 338.010, 338.055, 338.140, 338.150, 338.210, 338.220, and 338.240, HB 412 and SB

325, First Regular Session, Ninety-sixth General Assembly, 2011. Emergency rule filed Aug. 29, 2011, effective Sept. 8, 2011, expires March 5, 2012. Original rule filed Aug. 29, 2011.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately fifty-one thousand one hundred twenty-seven dollars (\$51,127) to sixty-four thousand four hundred eighty-four dollars (\$64,484) in the first year of implementation, twelve thousand seven hundred eighty-two dollars (\$12,782) to sixteen thousand one hundred twenty-one dollars (\$16,121) annually thereafter, and sixty-three thousand one hundred twenty-six dollars (\$63,126) to eighty-two thousand seven hundred eight dollars (\$82,708) biennially thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately six hundred forty-two thousand six hundred sixty dollars (\$642,660) in the first year of implementation, five hundred seventy-five thousand sixty-one dollars (\$575,061) annually thereafter, and one hundred thirty-nine thousand sixty-three dollars (\$139,063) biennially thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this rule in the **Missouri Register**. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2220 - Board of Pharmacy

Chapter 2 - General Rules

Proposed Rule - 20 CSR 2220-2.675 Standards of Operation/Licensure for Class L Veterinary Pharmacies

Prepared August 23, 2011 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Net Effect on Board of Pharmacy Fund		
Board of Pharmacy	1st Year of Implementation of Rule Increase to Fund	\$25,516.03 to \$38,873.32
	Annual Increase to Fund Beginning After 1st Year	\$6,379.01 to \$9,718.33
	Biennial Increase to Fund	\$52,291.92 to \$71,874.35

Estimated Revenue for the Missouri Board of Pharmacy	
1st Year of Implementation of Rule	\$90,000.00
Annual Revenue After 1st Year	\$22,500.00
Biennial Revenue	\$135,000.00

Estimated Costs for the Missouri Board of Pharmacy	
1st Year of Implementation of Rule	\$51,126.68 to \$64,483.97
Annual Costs Beginning After 1st Year	\$12,781.67 to \$16,120.99
Biennial Costs	\$63,125.65 to \$82,708.08

III. WORKSHEET

ESTIMATED REVENUE - See Private Entity Fiscal Note

ESTIMATED COSTS

1st Year of Implementation

Personal Service Dollars (Y1)

The following individuals will review and process initial Class L permit applications and inspect the facilities for compliance with the statutes and regulations of the board.

Licensure Technician II - responsible for processing and reviewing initial Class L permit applications.

Pharmaceutical Consultant - responsible for initial inspection of pharmacies to ensure compliance with board of pharmacy statutes and regulations.

STAFF	ANNUAL SALARY RANGE	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER LICENSEE	COST PER APPLICATION	NUMBER OF ITEMS	TOTAL COST
Licensure Technician II	\$24,576 to \$26,640	\$37,439 to \$40,583	\$18.00 to \$19.51	\$0.30 to \$0.33	1 hour	\$18.00 to \$19.51	300 Class L Applicants	\$5,399.87 to \$5,853.37
Pharmaceutical Consultant	\$65,676 to \$95,040	\$100,051 to \$144,784	\$48.10 to \$69.61	\$0.80 to \$1.16	2 hours	\$96.20 to \$139.22	300 Class L Applicants	\$28,860.81 to \$41,764.60
Total Personal Service Costs								\$34,260.68 to \$47,617.97

Expense and Equipment Dollars (Y1)

Item	Cost	Quantity	Total Cost Per Item	
Permit Printing and Postage		\$0.72	300	\$216.00
Inspection Travel Costs		\$55.50	300	\$16,650.00
Total Expense and Equipment Costs			\$16,866.00	

Annual Costs After 1st Year of Implementation

Personal Service Dollars (Annual After Y1)

The following individuals will review and process initial Class L permit applications and inspect the facilities for compliance with the statutes and regulations of the board.

Licensure Technician II - responsible for processing and reviewing initial Class L permit applications.

Pharmaceutical Consultant - responsible for initial inspection of pharmacies to ensure compliance with board of pharmacy statutes and regulations.

STAFF	ANNUAL SALARY RANGE	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER LICENSEE	COST PER APPLICATION	NUMBER OF ITEMS	TOTAL COST
Licensure Technician II	\$24,576 to \$26,640	\$37,439 to \$40,583	\$18.00 to \$19.51	\$0.30 to \$0.33	1 hour	\$18.00 to \$19.51	75 Class L Applicants	\$1,349.97 to \$1,463.34
Pharmaceutical Consultant	\$65,676 to \$95,040	\$100,051 to \$144,784	\$48.10 to \$69.61	\$0.80 to \$1.16	2 hours	\$96.20 to \$139.22	75 Class L Applicants	\$7,215.20 to \$10,441.15
Total Personal Service Costs								\$8,565.17 to \$11,904.49

Expense and Equipment Dollars (Annual After Y1)

Item	Cost	Quantity	Total Cost Per Item	
Permit Printing and Postage		\$0.72	75	\$54.00
Inspection Travel Costs		\$55.50	75	\$4,162.50
Total Expense and Equipment Costs			\$4,216.50	

Biennial Costs**Personal Service Dollars (Biennial)**

The following individuals will review and process Class L renewal applications and perform routine inspection of these facilities. The board currently inspects pharmacies once every 12-18 months so these costs are shown here.

Licensure Technician II - responsible for processing and reviewing designated renewal applications.

Pharmaceutical Consultant - responsible for routine inspection of pharmacies to ensure compliance with board of pharmacy statutes and regulations.

STAFF	ANNUAL SALARY RANGE	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER LICENSEE	COST PER APPLICATION	NUMBER OF ITEMS	TOTAL COST
Licensure Technician II	\$24,576 to \$26,640	\$37,439.08 to \$40,583.38	\$18.00 to \$19.51	\$0.30 to \$0.33	30 minutes	\$9.00 to \$9.76	300 Class L Renewals	\$2,699.93 to \$2,926.69
Pharmaceutical Consultant	\$65,676 to \$95,040	\$100,050.82 to \$144,783.94	\$48.10 to \$69.61	\$0.80 to \$1.16	3 hours	\$144.30 to \$208.82	300 Class L Pharmacies	\$43,291.22 to \$62,646.90
Total Personal Service Costs								\$45,991.15 to \$65,573.58

Expense and Equipment Dollars (Biennial)

Item	Cost	Quantity	Total Cost Per Item
Permit Printing and Postage	\$0.72	300	\$216.00
Renewal Postcard Notices and Postage	\$0.36	300	\$108.00
Paper Renewal and Postage Costs	\$5.35	30	\$160.50
Routine Inspection Travel Costs	\$55.50	300	\$16,650.00
Total Expense and Equipment Costs			\$17,134.50

IV. ASSUMPTIONS

1. The estimated revenue is based on the application fees received for Class L permits which are reflected in the private entity fiscal note that is being filed with this rule.
2. The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual costs incurred by the office, which includes personal service, expense and equipment, and transfers.
3. Employee's salaries were calculated using the annual salary multiplied by 52.34% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of the specified item. The total cost was based on the cost per item multiplied by the estimated number of items.
4. Currently, veterinary pharmacies as defined by § 338.220 and § 338.240, RSMo, are unregulated in Missouri. Accordingly, the exact number of potential applicants/permit holders is unknown. The board's estimation of potential applicants/permit holders is based on the board's research of publicly available contact information for veterinary pharmacies/animal supply stores operating in Missouri. Based on the information gathered, the board identified approximately 475 veterinary pharmacies/animal supply stores. After discussions with members/representatives of the Missouri Veterinary Board, the Missouri Drug Distributor Advisory Committee, the Missouri Veterinary Association, and Missouri Farm Bureau, the board estimates approximately 300 of the 475 identified entities will require licensure. The board was advised that the actual number of applicants/permit holders may be significantly lower. After the 1st year of implementation, the board estimates approximately 75 new Class L applicants annually.
5. In lieu of mailing paper renewal applications, the board mails renewal notices by postcard with online renewal instructions. However, permit holders may opt to receive a paper renewal. Less than 10% of the board's current permit holders request a paper renewal. Accordingly, the board estimates that a maximum of 10% of the potential Class L permit holders will request a paper renewal resulting in postage costs (10% of 300 applicants = 30 paper renewal requests).
6. The pharmaceutical consultants that act as inspectors for the board are located throughout the state in assigned territories. The total time estimated for inspection activities includes the complete estimated time for travel and inspection. The inspection travel expenses are based on gas expenses for an average round-trip of 150 miles at \$0.37 per mile.
7. It is anticipated that the total revenue and costs will recur annually or biennially as specified above for the life of the rule, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2220 - Board of Pharmacy

Chapter 2 - General Rules

Proposed Rule - 20 CSR 2220-2.675 Standards of Operation/Licensure for Class L Veterinary Pharmacies

Prepared August 23, 2011 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Total Cost of Compliance for the Life of the Rule		
Class L Permit Holders	1st Year of Implementation of Rule	\$642,660.00
	Annual Costs Beginning After 1st Year	\$575,061.00
	Biennial Costs	\$139,063.20

III. WORKSHEET

1st Year of Implementation

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
300	Class L Pharmacy (Application Fee @ \$300)	\$90,000.00
300	Class L Pharmacy (Postage @ \$0.44)	\$132.00
300	Pharmacist in Charge Review Costs (Review @ \$153.48/Month)	\$552,528.00
Estimated Cost for 1st Year of Implementation of Rule		\$642,660.00

Annual Costs Beginning After 1st Year

	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
75	Class L Pharmacy (Application Fee @ \$300)	\$22,500.00
75	Class L Pharmacy (Postage @ \$0.44)	\$33.00
300	Pharmacist in Charge Review Costs (Review @ \$153.48/Month)	\$552,528.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$575,061.00

Biennial Costs

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
300	Class L Pharmacy (Renewal Fee @ \$450)	\$135,000.00
30	Class L Pharmacy (Postage @ \$0.44)	\$13.20
270	Class L Pharmacy (Online Renewal Vendor Processing Fee @ \$15)	\$4,050.00
	Estimated Biennial Cost of Compliance for the Life of the Rule	\$139,063.20

IV. ASSUMPTION

1. The fees reported above are based on FY2009 - FY2010 actuals for other specialty pharmacy classifications licensed by the board.
2. Currently, veterinary pharmacies as defined by § 338.220 and § 338.240, RSMo, are unregulated in Missouri. Accordingly, the exact number of potential applicants/permit holders is unknown. The board's estimation of potential applicants/permit holders is based on the board's research of publicly available contact information for veterinary pharmacies/animal supply stores operating in Missouri. Based on the information gathered, the board identified approximately 475 veterinary pharmacies/animal supply stores. After discussions with members/representatives of the Missouri Veterinary Board, the Missouri Drug Distributor Advisory Committee, the Missouri Veterinary Association, and Missouri Farm Bureau, the board estimates approximately 300 of the 475 identified entities will require licensure. The board was advised that the actual number of applicants/permit holders may be significantly lower. After the 1st year of implementation, the board estimates approximately 75 new Class L applicants annually.

3. Permit renewals may be submitted online or mailed to the board. Based on the board's current percentage of online and paper renewals in FY2009 and FY2010 for other permit classifications, it is estimated that approximately 90% of Class L permit holders will renew online (approx. 270 permit holders) with an estimated 10% requesting a paper renewal (approx. 30 permit holders).

Permit holders submitting a paper renewal will incur related postage costs. Permit holders renewing online are required to pay an online renewal vendor processing fee. The processing fee is established by the state of Missouri's approved online payment vendor and is not established by, or paid to, the Board of Pharmacy. The vendor processing fee is based on currently assessed rates and may be subject to change by the vendor.

4. The rule requires a monthly review of a Class L pharmacy's activities and records if a pharmacist is not present during business operations or if prescriptions are dispensed in the pharmacist's absence by a pharmacist-in-charge. The United States Bureau of Labor Statistics estimates the median annual pharmacist wage/salary to be approximately \$106,410 in the Occupational Outlook Handbook, 2010-2011 Edition. Based on the estimated annual salary, the board estimates an hourly pharmacist wage of \$51.16. The board further estimated a minimum of 3 hours per month per Class L pharmacy for pharmacist-in-charge review. The pharmacy policy and procedure manual required by this rule will be written and provided by the pharmacist-in-charge. The pharmacist-in-charge's time for this can be figured into the 3 hour per month estimate.
5. It is anticipated that the total costs will recur annually or biennially as specified above for the life of the rule, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTES: Although the compounding rules are referenced in subsection (4)(G) of this rule, the requirements and related costs are imposed by preexisting rules that apply to all pharmacies. Any Class L pharmacies that this applies to would have already been required to be licensed by existing rules. Therefore, new costs are not shown here.