



Rules of
Department of Labor and
Industrial Relations
Division 10—Division of Employment Security
Chapter 4—Unemployment Insurance

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**Title 8—DEPARTMENT OF
LABOR AND
INDUSTRIAL RELATIONS**

**Division 10—Division of
Employment Security**

Chapter 4—Unemployment Insurance

**8 CSR 10-4.010 Identification of Workers
Covered by the Missouri Employment
Security Law**

PURPOSE: This rule provides for identification by federal Social Security number of persons covered under the law. This rule implements section 288.220, RSMo. This rule was previously known as regulation no. 8.

(1) Each worker engaged in employment as defined in the Missouri Employment Security Law, including services covered by election, shall procure a federal Social Security account number and furnish that number to every employer for whom s/he performs services in employment.

(2) Each employer shall ascertain the federal Social Security account number of each worker performing services in employment for him/her.

(3) The employer shall report the worker's federal Social Security account number in making any protest to benefits or on any report required by the division with respect to a worker.

(4) Each worker shall furnish his/her federal Social Security account number to the division whenever s/he files an initial claim for benefits; and at any other time the information is requested.

AUTHORITY: section 288.220, RSMo 1986. Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. Amended: Filed June 20, 1951, effective July 1, 1951. Amended: Filed Nov. 9, 1954, effective Nov. 19, 1954. Amended: Filed Aug. 1, 1957, effective Aug. 29, 1957. Amended: Filed Nov. 21, 1975, effective Dec. 1, 1975.*

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971.*

8 CSR 10-4.020 Records and Reports

PURPOSE: This rule prescribes the records which employers are required to maintain and specifies as to the information contained and availability of those records. This rule implements section 288.130, RSMo. This rule was previously known as regulation no. 9.

(1) Each employing unit shall maintain payroll records for each worker which shall show—

(A) The worker's name and Social Security account number;

(B) The date on which s/he was hired, rehired or returned to work after temporary layoff, and the date, if any, when his/her name was removed from the payroll;

(C) Each day the worker performed services; provided, however, any employing unit may maintain records only of each week in which the worker performed services, if it is admitted by the employing unit that for all purposes of the Employment Security Law there was one (1) day in the week on which all workers appearing on the weekly record performed some services;

(D) The place where the work was done; and

(E) The date of the beginning and ending of each payroll period.

(2) The payroll records also shall record the wages paid each worker for each pay period by showing separately—

(A) Money wages;

(B) The cash value of all remuneration paid in any medium other than cash;

(C) Gratuities, including tips, received from persons other than the employing unit if reported to the employing unit; and

(D) Any special payments for services other than those rendered exclusively in a given pay period, such as annual bonuses, gifts, prizes, and the like, showing separately—money payments; other remuneration; the nature of those payments; and the period during which the services were performed for which the special payments were made.

(3) A notation shall be made of the hours in each pay period during which any services were performed by each worker which do not constitute employment covered by the law and the nature of those services.

(4) The records required to be maintained by this rule shall be preserved for a period of at least three (3) complete years. This means that for audit and inspection by the division there shall be available three (3) complete years' records in addition to a current incomplete year's records.

(5) Each employing unit shall notify the division in writing whenever it becomes liable to pay contributions as an employer. Such notification shall be filed with the division within thirty (30) days from the date the employing unit becomes liable to pay contributions as an employer.

(6) An employer shall notify the division upon acquisition of all or part of another business entity. Such notification shall be filed with the division within thirty (30) days from the date of the acquisition.

AUTHORITY: section 288.220, RSMo 2000. Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. Amended: Filed June 20, 1951, effective July 1, 1951. Amended: Filed Nov. 21, 1975, effective Dec. 1, 1975. Emergency amendment filed July 12, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed July 12, 1984, effective Oct. 11, 1984. Amended: Filed Aug. 30, 1996, effective March 30, 1997. Amended: Filed Aug. 30, 2013, effective Feb. 28, 2014.*

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*

**8 CSR 10-4.030 Contribution and Wage
Reports and Payment of Contributions**

PURPOSE: This rule prescribes as to the filing of quarterly tax and wage reports, the reporting of temporary employment, extension of time for filing, establishment of receipt date and exemption from filing reports. This rule implements sections 288.090 and 288.130, RSMo. This rule was previously known as regulation no. 10.

(1) On or before the last day of the month following each calendar quarter each employer shall complete and file contribution and wage reports with division containing, along with other relevant information, data as to the wages paid by that employer, and to whom paid, within the calendar quarter, on forms to be obtained from, or approved by, the division.

(2) On or before the last day of the month following each calendar quarter, each employer shall pay the contributions due with respect to the wages paid by it in that quarter.

(3) Employers required to report quarterly wage information due on magnetic media tape or diskette pursuant to section 288.090, RSMo, must report in a format prescribed by the division. Employers not required to report quarterly wage information due on magnetic media tape or diskette pursuant to section 288.090, RSMo, may elect to do so upon approval by the division and in a format prescribed by the division. If an employer that has elected to report quarterly wage information by magnetic media fails to report in the prescribed format, the division may at any



time cancel the approval through written notification.

(4) Any employer desiring to submit wage reports on forms other than those furnished by the division shall submit to the division a sample of the form proposed. The use of the form may be approved if it is printed on a satisfactory grade of white paper, eight and one-half inches by eleven inches (8 1/2" × 11") in size and if it supplies all required information in a satisfactory manner; provided, however, that the division's quarterly summary wage report form shall always be used as the first page of these reports. This approval may be canceled at any time at the option of the division.

(5) Upon the written request of an employer made on or before the due date of any report or contribution payment, the division may, for good cause shown, grant an extension of time for the filing of a report or the payment of contributions, but no such extension shall exceed three (3) months.

(6) Whenever it appears that an employer will employ no workers and pay no wages for a material period, the employer may file an application for exemption from filing contribution and wage reports. If the application is approved by the division, no reports need be filed so long as no wages are paid by the employer during the period covered by the approval. When any wages are paid for either past or current periods, the exemption shall be automatically canceled.

AUTHORITY: section 288.220, RSMo Supp. 1997. Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. Amended: Filed June 20, 1951, effective July 1, 1951. Amended: Filed Nov. 9, 1954, effective Nov. 19, 1954. Amended: Filed April 17, 1958, effective April 27, 1958. Amended: Filed Sept. 10, 1959, effective Sept. 20, 1959. Amended: Filed Oct. 1, 1965, effective Oct. 11, 1965. Amended: Filed Oct. 17, 1967, effective Oct. 27, 1967. Amended: Filed Dec. 18, 1972, effective Dec. 28, 1972. Amended: Filed Nov. 21, 1975, effective Dec. 1, 1975. Emergency amendment filed July 12, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed July 12, 1984, effective Oct. 11, 1984. Amended: Filed Aug. 4, 1998, effective Feb. 28, 1999.*

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*

8 CSR 10-4.040 Experience Rating

PURPOSE: This rule prescribes conditions under which a calculated experience tax rate is permissible, cut-off date for adjustments in prior reports and conditions for accepting voluntary contributions. This rule implements sections 288.090, 288.113 and 288.125, RSMo. This rule was previously known as regulation no. 11.

(1) An employer shall be eligible for experience rating for a calendar year in the event that—

(A) S/he was an employer on or before the first day of the twelve (12)-month period immediately preceding the calculation date for that year; and

(B) There was no period of eight (8) or more consecutive calendar quarters, in the first eleven (11) of the last thirteen (13) calendar quarters immediately preceding the calculation date for that year, in which no wages for employment were paid by that employer.

(2) A reasonable time after June 30 for a cut-off date for rate calculation purposes is established as the period ending with the date on which contribution and wage reports and contributions for the second calendar quarter of any year are delinquent as provided in section 288.090, RSMo. All contributions received by the division by that date shall be considered as contributions paid and credited within the time required and those contributions shall be used in the calculation of the employer's contribution rate for the following calendar year. Any adjustment of contributions or wages in respect to periods prior to July 1 of any year which are approved on or before the cut-off date shall be used in the calculation of contribution rates for the succeeding calendar years. All benefits paid prior to the July 1 calculation date shall be charged against the employer's account and used in the calculation of contribution rates applicable to the succeeding calendar year.

(3) Voluntary payments shall be transmitted by an employer to the division with a signed written statement identifying the amount as a voluntary payment. No voluntary payment will be accepted from an employer who is not eligible for an experience rating.

(4) A written determination showing contributions credited, benefits charged and the contribution rate for a calendar year shall be mailed to each employer as soon as practical after the July 1 calculation date.

AUTHORITY: section 288.220, RSMo 1986. Original rule filed Sept. 30, 1946, effective*

Oct. 10, 1946. Amended: Filed June 20, 1951, effective July 1, 1951. Amended: Filed Nov. 9, 1954, effective Nov. 19, 1954. Amended: Filed April 17, 1958, effective April 27, 1958. Amended: Filed June 1, 1961, effective June 11, 1961. Amended: Filed Oct. 1, 1965, effective Oct. 11, 1965. Amended: Filed Oct. 17, 1967, effective Oct. 27, 1967. Amended: Filed June 14, 1971, effective June 24, 1971. Amended: Filed Nov. 21, 1975, effective Dec. 1, 1975.

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971.*

8 CSR 10-4.050 Notice of Termination of Coverage

PURPOSE: This rule prescribes the method for notifying workers of termination of coverage under the law. This rule implements section 288.080, RSMo. This rule was previously known as regulation no. 12.

Editor's Note: The full text of any material that the adopting agency has incorporated by reference in this rule will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting state agency, pursuant to section 536.031(4), RSMo. Such material will be provided at the cost established by state law.

(1) Any employing unit whose application for termination of coverage is approved shall give notice of termination to each worker who is in employment on the date the employing unit receives the notice of the division's action. This shall be done by having each worker read and sign the notice. After the notifications, the notice form shall be conspicuously posted in the employing unit's principal place of business for a period of ninety (90) days. After that period, the employing unit shall certify to the facts of notice and posting and return the form to the division for its records.

(2) For a period of fifteen (15) months after the date of termination, the employing unit shall give to each of its workers separated from its employment a copy of the booklet *Information for Workers* about employment security in Missouri.

AUTHORITY: section 288.220, RSMo 1986. Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. Amended: Filed June 20, 1951, effective July 1, 1951. Amended: Filed Nov. 21, 1975, effective Dec. 1, 1975.*

**Original authority: 288.220, RSMo 1951, 1955, 1961, 1963, 1967, 1971.*

**8 CSR 10-4.060 Probationary Employment**

PURPOSE: This rule prescribes the method of reporting probationary employment. This rule implements section 288.100, RSMo. This rule was previously known as regulation no. 14.

(1) When an individual was employed by employer no longer than a probationary period of twenty-eight (28) consecutive days, no charge shall be made against employer's account in respect to benefits paid the individual, provided the probationary period of employment has been reported by a notation on the employer's wage report, required under 8 CSR 10-4.030 Contribution and Wage Reports and Payment of Contributions, which will give the beginning and ending dates of employment and a statement that the employment was probationary. Any employment of an individual after the first twenty-eight (28) days removes all such employment from probationary status.

*AUTHORITY: section 288.220, RSMo 1986. * Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. Amended: Filed June 20, 1951, effective July 1, 1951. Amended: Filed Aug. 1, 1957, effective Aug. 29, 1957. Amended: Filed Nov. 21, 1975, effective Dec. 1, 1975. Emergency amendment filed July 12, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed July 12, 1984, effective Oct. 11, 1984.*

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971.*

8 CSR 10-4.070 Supplementary Statistical Report for Multi-Area Employers

PURPOSE: This rule prescribes how statistical information by area, by industry is to be supplied where multiple operations of an employer are included in a combined report. This rule implements section 288.130, RSMo. This rule was previously known as regulation no. 16.

(1) The term area as used in this rule means the several counties of this state and the cities of St. Louis, Kansas City, St. Joseph and Springfield; except that the counties of Jackson, Buchanan and Greene outside the cities of Kansas City, St. Joseph and Springfield shall constitute separate areas.

(2) A multi-area employer is any employer who has more than fifty (50) workers in all areas other than the area in which that employer has his/her principal employment.

(3) The division's form, Supplementary Statistical Report for Calendar Quarter Ending _____, shall be completed by each multi-area employer for each calendar quarter and shall be returned to the division on or before the twenty-fifth day of the month following the calendar quarter covered by the report unless an extension of time is granted.

(4) If an employer can show that compliance with the previous requirement works an undue hardship, the division may approve any reasonable plan through which the employer can supply information equivalent to that required to be shown on the previously mentioned report.

*AUTHORITY: section 288.220, RSMo 1986. * Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. Amended: Filed June 20, 1951, effective July 1, 1951. Amended: Filed Nov. 21, 1975, effective Dec. 1, 1975.*

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971.*



Missouri Dept. of Labor & Industrial Relations
Div. of Employment Security- Research & Analysis
P.O. Box 59
Jefferson City, Missouri 65104
In Cooperation with the U.S. Department of Labor

Page ___ of ___



Multiple Worksite Report

The information collected on this form by the Bureau of Labor Statistics and the State agencies cooperating in its statistical programs will be used for statistical and Unemployment Insurance program purposes, as well as the purposes noted in the cover letter accompanying the first quarter report.

This report is authorized by law, 29 U.S.C. 2. Your voluntary cooperation is needed to make the results of this survey comprehensive, accurate, and timely.

Form Approved O.M.B. No. 1220-0134
Approval Expires 4/30/1993
See estimate of reporting hours in Time of Completion Statement on reverse side.

SUPPLEMENT TO MISSOURI QUARTERLY CONTRIBUTION AND WAGE REPORT

A. EMPLOYER NAME AND MAILING ADDRESS

B. QUARTERLY REPORT INFORMATION

Form field for Employer Name and Mailing Address

U.I. NUMBER :
QUARTER ENDING :
DUE DATE :

C. CONTACT PERSON

NAME :
TITLE :
PHONE : () Ext.

D. WORKSITES

SEE INSTRUCTIONS ON REVERSE SIDE

Table with 4 columns: (1) NAME (division, subsidiary, etc.), STREET ADDRESS (physical location), CITY, STATE AND ZIP CODE, WORKSITE DESCRIPTION (store number, plant name, etc.); (2) NUMBER OF EMPLOYEES During the Pay Period Which Includes the 12th of the Month; (3) TOTAL QUARTERLY WAGES OF WORKSITE (Round to the nearest dollar); COMMENTS

NOTE: The totals must agree (except for rounding) with the Missouri Quarterly Contribution and Wage Report (Form MODES-4). BLS 3020

TOTALS

INCLUDE THE TOTALS FOR ALL WORKSITES ON THE LAST PAGE ONLY



GENERAL INFORMATION

PURPOSE OF THIS REPORT

This Multiple Worksite Report is designed to collect information showing the distribution of the employment and wages of business establishments by industry and geographic area. These data will enable our agency to prepare accurate reports on the economic conditions of business activities by geographic area and industry within our State.

TIME OF COMPLETION

Time of Completion is estimated to vary from 10 minutes to 60 minutes per response, with an average of 22 minutes per response. This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing this information. If you have any comments regarding these estimates or any other aspect of this form, send them to the Bureau of Labor Statistics, Division of Management Systems (1220-0134), 441 G Street NW, Washington, D.C. 20212 and to the Office of Management and Budget, Paperwork Reduction Project, (1220-0134), Washington, D.C. 20503.

FILING INSTRUCTIONS

- The Missouri Dept. of Labor & Industrial Relations requests employers to submit this report, in addition to the Missouri Quarterly Contribution and Wage Report (Form MODES-4), if they operate the same business activity in more than one location or conduct different business activities from one or more locations within our state.
 - The **Due Date** for filing this report is preprinted in **SECTION B** along with the **QUARTER ENDING** date.
-

INSTRUCTIONS**SECTION A**

The address (in Section A) for your firm has been preprinted from information that you have previously supplied to this agency. Please review it and make any necessary corrections.

SECTION C

Please enter your name, title, and phone number (including the area code) on the first page of the form in Section C. This information is needed in case any questions arise concerning this report.

SECTION D

COLUMN 2	Please review the preprinted name (division, subsidiary, etc.) , physical location address, and worksite description information (i.e., store number, plant name, or principal business activity that uniquely identifies each worksite) that has been preprinted for each of the worksites listed and correct where necessary.
COLUMN 3	For each month of the quarter, please enter the total number of full- and part-time employees who worked at each worksite in any part of the pay period which includes the 12th of the month.
COLUMN 4	Please enter total wages paid during the quarter for each worksite rounded to the nearest dollar.
COMMENTS	Please explain any large changes in employment or wages, such as store closure, strikes, layoffs, bonuses, seasonal changes, etc., in the comments section for that worksite.
TOTALS	THE TOTALS FOR COLUMNS 3 AND 4 MUST AGREE WITH THE CORRESPONDING TOTALS ON THE MISSOURI QUARTERLY CONTRIBUTION AND WAGE REPORT (Form MODES-4).

NEW OR OMITTED UNITS (SINCE YOUR LAST QUARTERLY REPORT) :

If any units of your company have been omitted because you have expanded operations to a new location or purchased units from another company, please complete columns 2-4 for each worksite.

In addition, for each unit, please provide in the comments section :

1. The name of the county in which each is located, if known.
2. A description of the business activity(s) that will be conducted at each worksite.

If units were purchased from another company, also provide:

1. The name of the company,
2. The effective date of the transaction, and ...
3. The Unemployment Insurance number of the seller, if known.

SOLD OR INACTIVE UNITS (SINCE YOUR LAST QUARTERLY REPORT) :

Please indicate in the comments section any worksites that became inactive or were sold to another company.

In addition, for each unit sold, please provide in the comments section :

1. The name of the company,
2. The effective date of the transaction, and ...
3. The Unemployment Insurance number of the purchaser, if known.

If more space is needed, please attach a separate sheet of paper using the same format.

PLEASE RETURN COMPLETED FORM(S) IN THE ENCLOSED RETURN ENVELOPE.

IF YOU HAVE ANY QUESTIONS CONCERNING THIS REPORT, PLEASE WRITE OR CALL

**Missouri Dept. of Labor & Industrial Relations
Div. of Employment Security- Research & Analysis
P.O. Box 59
Jefferson City, Missouri 65104
(314) 751-3598**



8 CSR 10-4.080 Joint Accounts

PURPOSE: This rule prescribes how joint accounts will be established and the consequences of that action. This rule implements section 288.100, RSMo. This rule was previously known as regulation no. 17.

(1) Any employer may make application in writing to the division to participate in a joint account with one (1) or more other employers.

(2) The division shall approve those applications that meet the requirements of this rule.

(3) Any application to participate in a joint account must be filed by the first day of April of the calendar year in which the applicant-employer's membership in the joint account is to become effective. In addition, all contributions, interest and penalties due from the applicant-employer must be paid prior to the division approving the applicant-employer's membership in the joint account.

(4) All such applications shall be accepted only on the condition that the applicant waives all rights to its individual employer account under the law when the division approves the application and merges its individual account in a joint account for experience rating purposes.

(5) Each applicant-employer shall agree to assume joint and several liability for any contributions, interest and penalties accruing on the part of any one of the employers participating in the joint account during the duration of the account in consideration for the division granting the applicant-employer the right to participate in it.

(6) Each employer participating in a joint account agrees to maintain a sufficient record of its own employment in order that the employer can furnish the division with information necessary to enable the division to make proper certification to the Bureau of Internal Revenue of the United States Treasury under the Federal Unemployment Tax Act and to enable the division to determine any benefit charges against the separate account.

(7) No reduced rate of contributions shall be established for any joint account until each participating employer is individually eligible for the calculation of a contribution rate.

(8) All joint accounts will be maintained only on a calendar-year basis and those accounts must be maintained for a minimum period of

two (2) calendar years unless terminated sooner by action of the division.

(9) All contribution credits for all employers in a joint account will be calculated together. All benefit payments chargeable against all employers in a joint account will be calculated together. The average annual payroll of the joint account will be the average of the annual payrolls of all employers participating in the account.

(10) If any individual, type of organization or employing unit succeeds to the business of an employer participating in a joint account under conditions which would require the transfer of any separate account of that employer to the successor, the successor shall be *ipso facto* a member of the joint account.

(11) Withdrawal from a joint account by any participating employer may be approved if the request for withdrawal is made in writing to the division on or before December 31 of the year prior to the year for which the withdrawal is to be effective. The withdrawing employer, as of the effective date of withdrawal, shall be treated in all respects as a newly liable employer, regardless of all prior contributions or benefit payment experience. The remaining employer or employers shall continue to constitute the joint account. The withdrawal or termination of all except one (1) member shall not dissolve the joint account, unless and until that last member shall withdraw or terminate.

(12) Participation in a joint account shall not affect the right of any employer to terminate its liability, but after termination, the employer, in all respects, shall be treated as a withdrawing employer under this rule.

*AUTHORITY: section 288.220, RSMo 2000. * Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. Amended: Filed June 20, 1951, effective July 1, 1951. Amended: Filed Nov. 21, 1975, effective Dec. 1, 1975. Amended: Filed July 10, 1998, effective Dec. 30, 1998. Amended: Filed Dec. 28, 2000, effective July 30, 2001.*

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*

8 CSR 10-4.090 Employer Elections to Cover Multistate Workers

PURPOSE: This rule prescribes the procedures and definitions necessary to process elections of coverage and reporting of multistate workers. This rule implements section 288.340, RSMo. This rule was previously known as regulation no. 20.

(1) This rule shall govern this division in its administrative cooperation with other states subscribing to the Interstate Reciprocal Arrangement, referred to as the Arrangement.

(2) Definitions. As used in this rule, unless the context clearly indicates otherwise—

(A) Agency means any officer, board, commission or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction;

(B) Interested jurisdiction means any participating jurisdiction to which an election submitted under his/her regulation is sent for its approval; and interested agency means the agency of that jurisdiction;

(C) Jurisdiction means any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, the Dominion of Canada or, with respect to the coverage of any Federal Unemployment Compensation Law, the federal government;

(D) Participating jurisdiction means a jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence to the arrangement has not terminated; and

(E) Services customarily performed by an individual in more than one (1) jurisdiction means services performed in more than one (1) jurisdiction during a reasonable assurance that they will continue to be performed in more than one (1) jurisdiction or if those services are required or expected to be performed in more than one (1) jurisdiction under the election.

(3) Submission and Approval of Coverage Elections.

(A) Any employer may file an election on Form MODES-2019 to cover under the law of a single participating jurisdiction all of the services performed for him/her by an individual who customarily works for him/her in more than one (1) participating jurisdiction. Such an election may be filed, with respect to an individual, with any participating jurisdiction in which any part of the individual's services are performed; the individual has his/her residence; or the employing unit maintains a place of business to which the individual's services bear a reasonable relation.

(B) The agency of the elected jurisdiction (thus selected and determined) shall initially approve or disapprove the election. If the agency approves the election, it shall forward a copy to the agency of each other participating jurisdiction specified, under whose unemployment compensation or employment security law the individual(s) in question, in the absence of an election, might be covered.



Each interested agency shall approve or disapprove the election, as promptly as practicable; and shall notify the agency of the elected jurisdiction accordingly. In case its law so requires, any such interested agency, before taking action, may require from the electing employing unit satisfactory evidence that the affected employees have been notified of and have acquiesced in the election.

(C) If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons.

(D) Such an election shall take effect as to the elected jurisdiction only if approved by its agency and by one (1) or more interested agencies. An election approved shall take effect, as to any interested agency, only if it is approved by the agency.

(E) In case any election is approved only in part, or is disapproved by some of the agencies, the electing employing unit may withdraw its election within ten (10) days after being notified of the action.

(4) Effective Period of Elections.

(A) Commencement. An election duly approved under this rule shall become effective at the beginning of the calendar quarter in which the election was submitted, unless the election, as approved, specifies the beginning of a different calendar quarter. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, the earlier date may be approved solely as to those interested jurisdictions in which the employer had no liability to pay contributions for the earlier period in question.

(B) Termination. The application of an election to any individual under this rule shall terminate, if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed, so they are no longer customarily performed in more than one (1) participating jurisdiction. The termination shall be effective as of the close of the calendar quarter in which notice of the finding is mailed to all parties affected. Except as provided, each election approved shall remain in effect through the close of the calendar year in which it is submitted and after that until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies. Whenever an election under this rule ceases to apply to any individual, the electing unit shall notify the affected individual accordingly.

(5) Reports and Notices by the Electing Unit.

(A) The electing unit shall promptly notify each individual affected by its approved election on the Form MODES-2020 supplied by the elected jurisdiction and shall furnish the elected agency a copy of the notice.

(B) Whenever an individual covered by an election under this rule is separated from his/her employment, the electing unit shall again notify him/her as to the jurisdiction under whose unemployment compensation law his/her services have been covered. If at the time of termination the individual is not located in the elected jurisdiction, the electing unit shall notify him/her as to the procedure for filing interstate benefit claims.

(C) The electing unit shall report immediately to the elected jurisdiction any change which occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one (1) participating jurisdiction or where a change in the work assigned to an individual requires him/her to perform services in a new participating jurisdiction.

(6) Delegation of Authority to Approve Elections. The director delegates to the chief of contributions authority to approve or disapprove coverage elections in accordance with this rule.

AUTHORITY: section 288.220, RSMo 1986. * Original rule filed Sept. 30, 1946, effective Oct. 10, 1946. Amended: Filed June 20, 1951, effective July 1, 1951. Amended: Filed Nov. 9, 1954, effective Nov. 19, 1954. Amended: Filed Oct. 1, 1965, effective Oct. 13, 1965. Amended: Filed Nov. 21, 1975, effective Dec. 1, 1975. Amended: Filed July 17, 1985, effective Nov. 11, 1985.

*Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971.

8 CSR 10-4.100 Minimum Standard for the Payment of Unemployment Benefits Required by Section 288.390 (1978) to Entitle Employers to Claim the Maximum Allowable Credit Against the Federal Unemployment Tax
(Rescinded October 11, 1984)

AUTHORITY: section 288.390, RSMo 1978. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. Emergency rule filed Aug. 22, 1980, effective Sept. 2, 1980, expired Dec. 30, 1980. Amended: Filed Dec. 9, 1980, effective March 13, 1981. Emergency rescission filed July 12, 1984, effective Aug. 13,

1984, expired Dec. 10, 1984. Rescinded: Filed July 12, 1984 effective Oct. 11, 1984.

8 CSR 10-4.110 Minimum Standard for Payment of Unemployment Insurance Benefits to Claim Maximum Allowable Credit Against the Federal Unemployment Tax
(Rescinded July 11, 1982)

AUTHORITY: section 288.390, RSMo 1978. Emergency rule filed June 17, 1981, effective June 28, 1981, expired Sept. 25, 1981. Original rule filed June 17, 1981, effective Oct. 11, 1981. Emergency rescission filed March 23, 1982, effective April 2, 1982, expired July 31, 1982. Rescinded: Filed April 8, 1982, effective July 11, 1982.

8 CSR 10-4.111 Minimum Standard for Payment of Unemployment Insurance Benefits to Claim Maximum Allowable Credit Against the Federal Unemployment Tax
(Rescinded October 11, 1984)

AUTHORITY: section 288.390, RSMo 1978. Emergency rule filed March 19, 1982, effective March 29, 1982, expired July 27, 1982. Original rule filed April 8, 1982, effective July 12, 1982. Emergency rescission filed July 12, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Rescinded: Filed July 12, 1984, effective Oct. 11, 1984.

8 CSR 10-4.120 Benefits of Certain Employees of Educational Institutions
(Rescinded October 11, 1984)

AUTHORITY: section 288.390, RSMo 1978. Emergency rule filed April 13, 1983, effective April 24, 1983, expired Aug. 21, 1983. Original rule filed April 13, 1983, effective July 12, 1983. Emergency rescission filed July 12, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Rescinded: Filed July 12, 1984, effective Oct. 11, 1984.

8 CSR 10-4.130 Treatment of Employees Providing Services to Educational Institutions
(Rescinded October 11, 1984)

AUTHORITY: section 288.390, RSMo 1978. Emergency rule filed Jan. 12, 1984, effective April 1, 1984, expired July 29, 1984. Original rule filed Jan. 12, 1984. Emergency amendment filed Feb. 10, 1984, effective April 1, 1984, expired July 29, 1984. Emergency amendment filed March 9, 1984, effective



tive April 1, 1984, expired July 29, 1984. Amended: Filed Feb. 10, 1984, effective May 11, 1984. Emergency rescission filed July 12, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Rescinded: Filed July 12, 1984, effective Oct. 11, 1984.

8 CSR 10-4.140 Clarification of Beauty Salon and Similar Establishment

PURPOSE: This rule provides clarification of terms beauty salon and similar establishment as contained in section 288.032.4, RSMo.

(1) As used in section 288.032.4, RSMo, the term beauty salon shall be limited to an establishment which is required to obtain a certificate of registration under section 329.045, RSMo.

(2) As used in section 288.032.4, RSMo, the term similar establishment shall be limited to an establishment in which the occupation of a barber, as defined in section 328.010, RSMo, is performed.

AUTHORITY: section 288.220.5, RSMo 1986.* Emergency rule filed Aug. 6, 1986, effective Aug. 16, 1986, expired Dec. 13, 1986. Original rule filed Aug. 6, 1986, effective Nov. 28, 1986.

*Original authority: 288.220.5, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971.

8 CSR 10-4.150 Employer-Employee Relationship

PURPOSE: This rule ensures consistent interpretation of section 288.034.5, RSMo.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) In order to interpret section 288.034.5, RSMo, effective June 30, 1989, the division shall apply the common law rules applicable in determining the employer-employee relationship under 26 U.S.C., Section 3306(i). In applying the provisions of 26 U.S.C., Section 3306(i) the division shall consider the case law, Internal Revenue Service regulations and

Internal Revenue Service letter rulings interpreting and applying that subsection.

AUTHORITY: section 288.220.5, RSMo 1986.* Emergency rule filed July 3, 1989, effective July 13, 1989, expired Nov. 9, 1989. Emergency amendment filed Oct. 25, 1989, effective Nov. 4, 1989, expired Feb. 22, 1990. Original rule filed Oct. 25, 1989, effective Feb. 11, 1990.

*Original authority: 288.220.5, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971.

8 CSR 10-4.160 Lessor Employing Units

PURPOSE: This rule establishes procedures for complying with the surety bond or securities aspect of section 288.032.2(2), RSMo.

(1) Each lessor employing unit shall maintain a listing of its client lessees and a listing of employees leased to each client lessee. Each lessor employing unit shall file with its quarterly contribution and wage report the listing of its client lessees. The listings of client lessees and employees leased to each client lessee shall be available for audit and inspection by the Division of Employment Security.

(2) Any lessor employing unit desiring to post a surety bond with the Division of Employment Security in accordance with section 288.032.2, RSMo of the Missouri Employment Security Law, Chapter 288, RSMo shall execute a surety bond in the amount set forth in section 288.032.2, RSMo. The surety bond shall be on a form provided, or approved, by the division. Any bond not on the form provided by the division shall be submitted to the division for approval prior to its being executed.

(3) The surety bond must be issued by an insurance company licensed for bonding in the state on behalf of the applicant. The form must bear the seal of the insurance company, the effective date and be accompanied by a power of attorney letter signed by the attorney-in-fact and it must also contain the signature of the applicant.

(4) The Division of Employment Security may reject a surety bond issued by an insurance company which has been suspended by the Missouri Department of Insurance. The division may require a lessor employing unit which has a surety bond issued by an insurance company suspended by the Missouri Department of Insurance to replace that bond with a new surety bond issued by a company in good standing with the Missouri Depart-

ment of Insurance. The replacement bond must be bought by the lessor employing unit within thirty (30) days of notification by the division.

(5) Any lessor employing unit depositing securities with the Division of Employment Security in accordance with section 288.032.2, RSMo shall also execute an Assignment and Escrow Agreement provided by the division. The agreement shall contain a provision in which the lessor employing unit consents to an audit of its records prior to the release or cancellation of the securities tendered with the agreement.

(6) Any securities deposited in a depository designated by the director of the Division of Employment Security pursuant to section 288.032.2, RSMo shall be accompanied by the signed statement of a licensed broker identifying each security and setting forth its current market value. Should the combined value of those deposited securities be less than the required amount, the lessor employing unit shall immediately deposit additional securities to raise the value to the required amount. After that, the lessor employing unit shall submit with its quarterly contribution and wage reports—

(A) A statement signed by a licensed broker setting forth the market value on the first business day of that month of each security so deposited; and

(B) An attestation by the broker stating that s/he has no interest in and is not affiliated in any way with the lessor employer or the corporation(s) that issued the stocks included in the market value statement.

(7) Pursuant to section 288.032.2, RSMo, a lessor employing unit, in lieu of a surety bond or securities, may obtain a certificate of deposit issued by any state or federally chartered financial institution in an amount equivalent to the amount required for a surety bond. The certificate of deposit shall be made payable jointly to the employing unit and the Division of Employment Security. The lessor employing unit shall forward the certificate of deposit, along with an executed Assignment and Escrow Agreement, to the division. The lessor employing unit shall forward to the division the certificate of deposit and an executed Assignment and Escrow Agreement on a form provided by the division.

(8) The director of the Division of Employment Security shall notify any lessor employing unit who has posted a corporate surety bond, deposited marketable securities, or obtained a certificate of deposit, of the dollar



amount required for that year to comply with the provisions of section 288.032.2, RSMo. The notification shall be mailed to each lessor employing unit not later than the end of February of each calendar year.

(9) Neither the obligation for payment nor the bond, securities, or certificate of deposit securing payment of unemployment contributions pursuant to section 288.032.2, RSMo of the Missouri Employment Security Law shall be released until the Division of Employment Security is satisfied, either by audit or otherwise, that all contributions liability on account of the bond, securities or certificate of deposit has been paid. This section of this rule shall not be construed to increase the liability of the surety in excess of the face amount of the bond regardless of the period of time the bond remains in effect, nor shall it be construed to affect the right of any surety to terminate the bond in accordance with the terms of the bond.

(10) The forms provided by the division to be used to comply with this rule may be obtained by contacting the division at 573-751-3331; by writing the Division of Employment Security, Attention Liability Unit, P.O. Box 59, Jefferson City, MO 65104-0059; or by downloading the form through the division's Internet web site at <http://www.dolir.state.mo.us/es/>.

AUTHORITY: section 288.220, RSMo Supp. 1999. Original rule filed Dec. 2, 1992, effective June 7, 1993. Amended: Filed Feb. 2, 1995, effective Aug. 30, 1995. Amended: Filed May 2, 2000, effective Nov. 30, 2000.*

**Original authority 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*

8 CSR 10-4.170 Irrevocable Letter of Credit

PURPOSE: This rule establishes procedures for complying with the irrevocable letter of credit aspect of section 288.032(2), RSMo.

(1) A letter of credit, issued by a commercial bank chartered under the laws of Missouri or chartered pursuant to the National Banking Act, may be submitted to the Missouri Department of Labor and Industrial Relations, Division of Employment Security, (hereinafter the division) in lieu of a surety bond or securities as required by section 288.032, RSMo. The letter of credit must be in an amount equal to the otherwise required bond or securities.

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

(3) All letters of credit shall conform to a required format. A standard letter of credit form embodying this format shall be provided by the division. All letters of credit shall be accompanied by an authorization for release of confidential information allowing the director of the division or his/her designee to release confidential information to the issuing bank.

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

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

(6) Letters of credit shall have a term of one (1) year and shall be automatically renewable on an annual basis for an additional five (5) years. A letter of credit may be canceled by the issuer sixty (60) days after written notice is delivered to the division. Upon this notice the lessor employing unit shall be required to substitute a surety bond within sixty (60) days. If the required bond is not received within that time period, the client lessees will be jointly and severally liable and required to separately report as provided in section 288.032, RSMo.

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

(8) A lessor employing unit shall be required to augment letters of credit in any situation where the lessor employing unit would be required to increase its coverage under a surety bond. This additional bonding requirement may be satisfied by increasing the letter of credit, submitting an additional letter of credit, submitting an additional surety bond, depositing additional securities, or submitting an additional certificate of deposit. Failure to increase the letter of credit amount when required will result in the client lessees being jointly and severally liable and required to separately report as provided in section 288.032, RSMo.

AUTHORITY: section 288.220, RSMo Supp. 1997. Original rule filed March 24, 1998, effective Sept. 30, 1998.*

**Original authority: 288.220. RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF EMPLOYMENT SECURITY

AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION

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

of making demand for payment on letter of credit number _____ as long as the obligation remains in force and effect. Release of this information to the named banking institution does not give the banking institution authority to request information other than information concerning the delinquent periods for which a demand for payment is being made. I also release the Missouri Department of Labor and Industrial Relations, Division of Employment Security, and Division personnel from any and all liability under section 288.250, RSMo, resulting from the release and disclosure of confidential information to this banking institution.

In witness whereof I, (We) have duly executed the foregoing this _____ day of _____, 19 _____.

Lessor Employing Unit

Typed and Printed

Unemployment Contribution Account Number

Owner/Officer

Signature

Name and Title

Typed and Printed

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

I have hereunto set my hand and affixed my official seal at my office in this _____ day of _____, 19 _____.

My term expires _____

Notary Public

MODES-4354-3 (10-97)
Cont.



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF EMPLOYMENT SECURITY

IRREVOCABLE LETTER OF CREDIT

TO: Missouri Department of Labor and Industrial Relations (Beneficiary)
Division of Employment Security
P.O. Box 59
Jefferson City, MO 65104-0059

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

Date of Issuance _____

At the Request of _____

Doing business as _____

of _____ State of _____

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

Demand under this irrevocable letter of credit must be accompanied by a statement of delinquent contributions, payments in lieu of contributions, penalties and interest due the Missouri Department of Labor and Industrial Relations, Division of Employment Security, and marked "Drawn against irrevocable letter of credit number _____."

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

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

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

In witness whereof, we have duly executed the foregoing this _____ day of _____, 19 _____.

Issuing Bank Institution

Address City, State, Zip Code

Bank routing transit number By _____ Signature and Title of Bank Official

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

I have hereunto set my hand and affixed my official seal at my office in this _____ day of _____ 19 _____.

My term expires _____ Notary Public

MODES-4354 (10-97)
Cont.



8 CSR 10-4.180 Coverage of Indian Tribes

PURPOSE: This rule implements the federally mandated coverage of Indian tribes under the Missouri Employment Security Law, Chapter 288, RSMo.

(1) Definitions. As used in this rule, except as otherwise required for the content, the following terms shall have the meanings ascribed:

(A) Director—The administrative head of the Division of Employment Security.

(B) Division—The Division of Employment Security.

(C) Indian tribe—The meaning given to such term in section 3306 of the Federal Unemployment Tax Act (26 U.S.C. 3306).

(D) Employer—Includes any Indian tribe for which service in employment as defined in section 288.034, RSMo is performed.

(E) Employment—Includes service performed in the employ of an Indian tribe, provided such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) of the Federal Unemployment Tax Act, and is not otherwise excluded from employment under Chapter 288, RSMo. For purposes of this rule, the exclusions from employment in subsection 9 of section 288.034, RSMo shall be applicable to services performed in the employ of an Indian tribe.

(2) Benefits. Benefits based on service in employment of an Indian tribe shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to Chapter 288, RSMo. The provisions of subsection 3 of section 288.040, RSMo pertaining to services performed at an educational institution while in the employ of an “educational service agency” shall apply to services performed in an educational institution or educational service agency wholly owned and operated by an Indian tribe or tribal unit.

(3) Contributions. Indian tribes or tribal units (subdivisions, subsidiaries or business enterprises wholly owned by such Indian tribes) subject to this chapter shall pay contributions under the same terms and conditions as all other subject employers, unless they elect to pay into the state unemployment fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe. An Indian tribe and all tribal units of such Indian tribe shall be jointly and severally liable for any and all contributions, payments in lieu of contributions, interest,

penalties, and surcharges owed by the Indian tribe and all tribal units of such Indian tribe.

(4) Payments in Lieu of Contributions. Indian tribes electing to make payments in lieu of contributions must make such election in the same manner and under the same conditions as provided in subsection 3 of section 288.090, RSMo pertaining to state and local governments and nonprofit organizations subject to Chapter 288, RSMo. Indian tribes will determine if reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units. Termination of an Indian tribe’s coverage pursuant to subsection (C) of this section shall terminate the election of such Indian tribe and any tribal units of such Indian tribe to make payments in lieu of contributions.

(A) Indian tribes or tribal units will be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(B) Any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions shall be required, prior to the effective date of its election, to post with the division a surety bond issued by a corporate surety authorized to do business in Missouri in an amount equivalent to the contributions or payments in lieu of contributions for which the Indian tribe or tribal unit was liable in the last calendar year in which it accrued contributions or payments in lieu of contributions, or one hundred thousand dollars (\$100,000), whichever amount is the greater, to ensure prompt payment of all contributions or payments in lieu of contributions, interest, penalties and surcharges for which the Indian tribe or tribal unit may be, or becomes, jointly and severally liable pursuant to this chapter.

(C) Failure of the Indian tribe or tribal unit to maintain the required surety bond, including the posting of an additional surety bond or a replacement surety bond within ninety (90) days of being directed by the division, will cause services performed for such Indian tribe to not be treated as “employment” for purposes of Chapter 288, RSMo.

(D) The director may determine that any Indian tribe that loses coverage under subsection (C) of this section, may have services performed for such tribe again included as “employment” for purposes of Chapter 288, RSMo if all contributions, payments in lieu of contributions, penalties, interest, and surcharges have been paid. Upon reinstatement of coverage under this subsection, an Indian tribe or any tribal unit may elect, in accor-

dance with the provisions of this section, to make payments in lieu of contributions.

(E) If an Indian tribe fails to maintain the required surety bond by posting an additional surety bond or a replacement surety bond within ninety (90) days of being directed by the division, the director will immediately notify the United States Internal Revenue Service and the United States Department of Labor.

(F) Notices of surety bond deficiency to Indian tribes or their tribal units shall include information that failure to post an additional surety bond or a replacement surety bond within the prescribed time frame will cause:

1. The Indian tribe to be liable for taxes under the Federal Unemployment Tax Act;

2. The Indian tribe to be excepted from the definition of “employer,” as provided in section (1) of this rule, and services in the employ of the Indian tribe, as provided in section (1) of this rule, to be excepted from “employment.”

(5) Failure to Make Payments. Failure of the Indian tribe or tribal unit to make any payments required in Chapter 288, RSMo, including assessments of interest and penalty, within ninety (90) days of receipt of the bill will cause services performed for such Indian tribe to not be treated as “employment” for purposes of Chapter 288, RSMo.

(A) The director may determine that any Indian tribe that loses coverage under this section, may have services performed for such tribe again included as “employment” for purposes of Chapter 288, RSMo if all contributions, payments in lieu of contributions, penalties, interest, and surcharges have been paid.

(B) If an Indian tribe fails to make required payments (including assessments of interest and penalty) within ninety (90) days of a final notice of delinquency, the director will immediately notify the United States Internal Revenue Service and the United States Department of Labor.

(C) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed time frame will cause:

1. The Indian tribe to be liable for taxes under the Federal Unemployment Tax Act;

2. The Indian tribe to be excepted from the definition of “employer,” as provided in section (1) of this rule, and services in the employ of the Indian tribe, as provided in section (1) of this rule, to be excepted from “employment.”



(6) Extended Benefits. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe.

AUTHORITY: section 288.220, RSMo 2000. Emergency rule filed June 13, 2002, effective July 1, 2002, expired Dec. 27, 2002. Original rule filed June 13, 2002, effective Dec. 30, 2002.*

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*

8 CSR 10-4.190 State Unemployment Tax Act Dumping

PURPOSE: This rule implements federally mandated legislation regarding State Unemployment Tax Act Dumping under the Missouri Employment Security Law, section 288.110.2, RSMo.

(1) When used in section 288.110.2, RSMo the following terms mean:

(A) “Substantially common ownership” exists if, on the date of an acquisition of the organization, trade or business of an employing unit, a shareholder, officer, or other owner of a legal or equitable interest in the predecessor employing unit, or the spouse, natural child, stepparent, stepsibling, or a person within the first or second degree of consanguinity or affinity or secondary affinity of the shareholder, officer, or other owner:

1. Is a shareholder, officer or other owner of a legal or equitable interest in the successor-employing unit; or

2. Holds an option to purchase a legal or equitable interest in the successor-employing unit.

(B) “Substantially common management or control” exists if, after the acquisition of the organization, trade or business of an employing unit, the predecessor-employing unit continues to:

1. Own or manage the entity that conducts the organization, trade or business;

2. Own or manage the assets necessary to conduct the organization, trade, or business;

3. Control through security or lease arrangements the assets necessary to conduct the organization, trade or business; or

4. Direct the internal affairs or conduct of the organization, trade or business.

AUTHORITY: section 288.220, RSMo 2000. Emergency rule filed Nov. 22, 2005, effective Jan. 1, 2006, expired June 29, 2006. Original*

rule filed Nov. 22, 2005, effective May 30, 2006.

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*

8 CSR 10-4.200 Unemployment Automation Surcharge

PURPOSE: This rule establishes procedures for calculating the unemployment automation surcharge and the conditions for receiving the contribution rate reduction provided in section 288.131, RSMo.

(1) For purposes of calculating the amount of the annual unemployment automation surcharge, a cut-off date is established as the period ending with the date on which contribution and wage reports and contributions for the second calendar quarter of any year are delinquent as provided in section 288.090, RSMo.

(2) An employing unit not previously subject to this law that becomes an employer or is determined to be an employer after the cut-off date will not be liable to pay the unemployment automation surcharge during the following calendar year.

(3) Any employer whose liability to pay contributions under Chapter 288, RSMo, is established prior to the cut-off date and whose contribution rate is greater than zero (0) shall pay an annual unemployment automation surcharge based upon such employer’s total taxable wages for the twelve (12)-month period ending the preceding June 30. If any such employer neglects or refuses to file a contribution report for any calendar quarter during the twelve (12)-month period ending the preceding June 30, the division shall make an estimate based on any information in its possession or that may come into its possession of the amount of taxable wages paid by such employer for the period in respect to which the employer failed to file such contribution and wage report. The division shall use such estimated taxable wages in calculating the amount of the unemployment automation surcharge for the following calendar year.

(4) If an employer is not liable under this rule to pay the unemployment automation surcharge during a specific calendar year, that employer’s applicable contribution rate for such calendar year shall not be reduced by five one-hundredths of one percent (0.05%).

*AUTHORITY: section 288.220, RSMo 2000.**

Original rule filed July 31, 2008, effective Jan. 30, 2009.

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*

8 CSR 10-4.210 Prohibition on the Non-Charging of Benefits

PURPOSE: This rule implements an amendment to the Federal Unemployment Tax Act made by Section 252 of the federal Trade Adjustment Assistance Extension Act of 2011, Public Law No. 112-40, mandating that states prohibit the non-charging of certain overpaid unemployment benefits to employers’ separate experience rating accounts.

(1) No employer’s account shall be relieved of charges relating to a payment that was erroneously made from the unemployment compensation fund if the division determines that—

(A) The erroneous payment was made because the employer or an agent of the employer was at fault for failing to respond timely or adequately to a written request from the division for information relating to a claim for unemployment benefits; and

(B) The employer or an agent of the employer has established a pattern of failing to respond timely or adequately to requests made under subsection (A) of this section.

(2) For the purpose of this rule, the following terms shall mean:

(A) “Adequately,” responses to requests for information must include sufficient facts for the deputy to reach the conclusion ultimately and finally made in regard to the claim;

(B) “Erroneous payment,” a payment that, but for the failure by the employer or the agent of the employer to respond timely and adequately to a written request from the division for information with respect to the claim for unemployment benefits, would not have been made;

(C) “Pattern of failing,” repeated documented failure on the part of the employer or the agent of the employer to respond, taking into consideration the number of instances of failure in relation to the total volume of requests. An employer or an agent of the employer failing to respond as described under subsection (1)(A) of this rule shall not be determined to have engaged in a pattern of failure if the number of the failures during the year prior to the request is fewer than two (2) or less than two percent (2%) of the requests, whichever is greater; and

(D) “Timely,” information must be post-marked or received by the division on or



before the date provided in the request for information.

(3) For good cause shown, the employer or employer agent shall be excused from timely or adequately responding to a written request for information. For purposes of this rule, good cause shall be limited only to those circumstances that are wholly beyond the control of the employer or employer agent and then only if the employer or employer agent acts as soon as possible. The employer or employer agent shall bear the burden of proving good cause to the satisfaction of the division.

(4) Determinations by the division prohibiting the relief of charges under this rule shall be subject to appeal or protest as other determinations of the division with respect to the charging of employer accounts.

(5) This rule shall apply to erroneous payments established on or after October 1, 2013.

AUTHORITY: sections 288.220 and 288.390, RSMo 2000. Emergency rule filed Aug. 22, 2013, effective Oct. 1, 2013, expired March 29, 2014. Original rule filed Aug. 22, 2013, effective Feb. 28, 2014.*

**Original authority: 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*