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**MATT BLUNT**

**SECRETARY OF STATE**

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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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## HOW TO CITE RULES AND RSMo

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

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

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

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

Each department of state government is assigned a title. Each agency or division in 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.



## **FROM THIS ANGLE...**

### **Telephone Inquiries**

During the summer months, we have been fortunate enough to have a summer intern, Nathan Dampf, working with us to assist us in checking long ago filed documents, verifying contact information, organizing and cross-checking incorporated by reference materials, etc. (Nathan is a student at Central Missouri State University and will be a junior this school year.) Nathan's assistance has been invaluable in getting all of this information categorized and contained in an electronic spreadsheet – thus making our systems much more efficient. You may have already received a call from Nathan or from another member of our staff. We are attempting to organize and clean up *Code* and anything related to *Code* in anticipation of automating administrative rulemaking. Please be responsive to Nathan or any other member of our staff when they call. After all, we are trying to assist your agency in ensuring all of the proper materials are on file and maintained in this office.

Nathan and other members of the Administrative Rules team will also be calling to verify agency contact names, addresses, telephone numbers and e-mail addresses. This should take only a few moments of your time to make certain we have the most up-to-date information for your agency. Thank you in advance for your help with these important projects.

### **Changes in Administrative Rules – Budget Cuts**

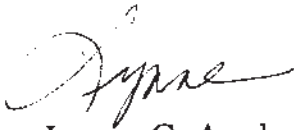
The Administrative Rules Division experienced budget cuts by way of 2 FTEs, as have many of our friends in state government. Tough times call for tough actions. We will continue with our goal to meet or exceed your expectations as we regroup and reassign duties to meet our ongoing publication deadlines and related work products. If you have any specific needs or questions, please do not hesitate to call me at 573-522-9262 or e-mail me at [anglel@sosmail.state.mo.us](mailto:anglel@sosmail.state.mo.us).

## **Address Change**

Should you need to communicate with the Administrative Rules Division *via* e-mail in order to forward an in addition, or any other publication-type e-mail (except dissolutions) -- or -- if you need an electronic copy of your rule text to begin revisions for a rulemaking, please e-mail our Ad Rules mailbox at [rules@sosmail.state.mo.us](mailto:rules@sosmail.state.mo.us). Our main line telephone number remains the same – 573-751-4015.

If you are forwarding a dissolution, please utilize our dissolutions mailbox, which is: [dissolutions@sosmail.state.mo.us](mailto:dissolutions@sosmail.state.mo.us).

Please let us know if we may be of any assistance with any phase of the rulemaking process or in the publication of your agency's rules.



Lynne C. Angle, Director  
Administrative Rules Division



**R**ules 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.

**R**ules 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.

**A**ll 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 10—DEPARTMENT OF NATURAL RESOURCES Division 70—Soil and Water Districts Commission Chapter 5—State Funded Cost-Share Program

### EMERGENCY AMENDMENT

**10 CSR 70-5.040 Cost-Share Rates and Reimbursement Procedures.** The Soil and Water Districts Commission is amending section (1).

*PURPOSE:* This amendment will remove the stipulation that state cost-share rates shall not exceed the locally federally funded cost-share rate. By amending the existing rule, the Soil and Water Districts Commission (the commission) will be able to continue providing a seventy-five percent (75%) cost-share rate while the local federal cost-share program will provide a fifty percent (50%) cost-share rate beginning July 1, 2003. This emergency amendment does not represent a change in the percentage of state-cost share rate of seventy-five percent (75%), but, rather, ensures a continuance of the customary practice at the current state-cost share rate of seventy-five percent (75%). Additionally, no additional impact on state funds will be created by this emergency amendment nor will any additional expenditures of General Revenue funds occur as a result of this emergency amendment.

*EMERGENCY STATEMENT:* The Soil and Water Districts Commission believes that a compelling governmental interest exists in

notifying the citizens of the state of Missouri, particularly the agricultural community, that there will be no reduction in the state cost-share percentage of seventy-five percent (75%), even though the federal cost-share percentage is being reduced to fifty percent (50%). This will ensure that more conservation work is accomplished throughout the state of Missouri. This emergency amendment is limited in scope to address this specific state cost-share percentage and the continuance of that practice only.

Current Soil and Water Conservation Program rules state that, "State cost-share rates shall not exceed the local federally funded cost-share rates for corresponding practices nor shall components be included which are not eligible through the local federally funded program. . . ." This rule was originally written when the available local federal cost-share funds were quite limited and if not used, were returned to the federal coffers. The Soil and Water Districts Commission did not want a state cost-share program that competed with the federal cost-share program. Both the federal and state cost-share programs have been providing a seventy-five percent (75%) cost-share rate to participants. However, due to the current increased federal funding for cost-share made available through the Farm Bill as well as the backlog of federal applications waiting to be funded, the Missouri Natural Resources Conservation Service (NRCS) state conservationist announced that local federal cost-share rates, beginning on July 1, 2003 will be paid at fifty percent (50%).

Given the depressed agricultural economy of the state, the Soil and Water Districts Commission would like to keep the state cost-share rate at seventy-five percent (75%). They feel that by keeping the cost-share rate at seventy-five percent (75%), more conservation work will be completed, helping them meet their goal of reducing soil erosion on ninety-five percent (95%) of Missouri's agricultural land to an acceptable level by 2006.

Amending the rule would remove the stipulation that state cost-share rates will not exceed the local federally funded cost-share rates. The Soil and Water Districts Commission has requested this emergency amendment in order to allow them to continue to provide a seventy-five percent (75%) cost-share rate while the local federal cost-share program will provide a fifty percent (50%) cost-share rate beginning July 1, 2003. Allowing the commission to implement this amendment will allow them to continue to provide a seventy-five percent (75%) cost-share rate to Missouri agricultural landowners that may be unable to construct or install soil and water conservation practices for less than seventy-five percent (75%).

Therefore, the commission finds that compelling governmental interests require adoption of this emergency amendment. 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 Department of Natural Resources believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed on July 9, 2003, effective July 19, 2003 and expires January 14, 2004.

(1) Cost-Share Rates. Cost-share rates shall not exceed seventy-five percent (75%) of the actual approved costs of eligible practices or the incentive rates established annually by the commission for certain management practices which have proven to be effective soil and water conservation methods. [State cost-share rates shall not exceed the local federally funded cost-share rates for corresponding practices nor shall components be included which are not eligible through the local federally funded program, except that special area land treatment project areas are exempt from local federally funded cost-share rate and component limitations of this rule.]

*AUTHORITY:* sections 278.070(4), and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo [1986] Supp. 2002. Original rule filed

*Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed July 9, 2003, effective July 19, 2003, expires Jan. 14, 2004.*



**U**nder 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."

**E**ntirely 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.

**A**n 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.

**I**f 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*.

**A**n 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.

**I**f 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 9—DEPARTMENT OF MENTAL HEALTH Division 25—Fiscal Management Chapter 2—Purchase of Service Contracting

### PROPOSED AMENDMENT

**9 CSR 25-2.005 Definitions.** The department proposes to revise section (2) by deleting some definitions and revising others and relettering definitions as necessary.

*PURPOSE:* This amendment will delete procedural language as well as clarify and update language stating the requirements for processing a Request For Proposal (RFP).

(2) Unless the context clearly requires otherwise, the following terms used in this chapter shall mean:

(D) *[Comparative]* **Competitive** evaluation, the process set out in this chapter where the department evaluates completed proposals

from responsive offerors to determine the best proposal(s) for the Department of Mental Health. Multiple contracts may be awarded in the best interest of the department;

*[(E) Comparative negotiation, the process set out in this chapter, where the department evaluates a completed proposal from a responsive offeror with other proposals or existing arrangements in an area to determine the most desirable aspects of proposals submitted. The department then informs the responsive offerors of the desirable aspects and uses them as the basis for negotiating an award to one (1) or more offerors;]*

*[(F)] (E)* Comprehensive array of services, for the Division of Comprehensive Psychiatric Services, it is the capacity of an agency to provide services, including mental health evaluation and assessment services, individual and group therapies, day treatment, medical services, administrative coordination, case management, information and education services and general access to or provision of inpatient care on both a scheduled and twenty-four (24)-hour-a-day basis; for the Division of Mental Retardation and Developmental Disabilities, it is the capacity of an agency to provide services including, but not limited to, assessment services, counseling, respite care, recreation, habilitation, training, vocational rehabilitation, residential care, homemaker services, developmental day care, sheltered workshops, referral to appropriate services, placement and transportation;

*[(G)] (F)* Contractual agreement, the document executed by a department official and the offeror selected as set out in this chapter to provide certain services to certain clients in a certain geographic area;

*[(H)] (G)* Department, the Department of Mental Health and its Divisions of Comprehensive Psychiatric Services, Mental Retardation and Developmental Disabilities, Alcohol and Drug Abuse and the department's designated staff;

**(H) Multiple award, a contract or contracts awarded to two (2) or more offerors for services required to meet the needs of the department;**

*[(I) Early intervention services, developmental services provided by qualified personnel to meet infant's or toddler's developmental needs in one (1) or more of the following areas: physical development, including vision and hearing; cognitive development; social or emotional development; social or emotional development or adaptive development. Early intervention services must be provided in conformity with an individualized family service plan (P.L. 102-119, Part H);]*

**(I) Noncompetitive negotiation, the noncompetitive procedure where the department establishes contracts with eligible service providers through direct negotiation, and a contract(s) is awarded in accordance with the fiscal and programmatic interests of the department.**

*[(J) Evaluation of proposal, the examination of proposals after the proposal closing time and date to determine whether an offeror is responsible and responsive to the criteria stated in the RFP;]*

*[(K) First Steps, an interagency program which provides coordinated, early intervention services and assistance for eligible children, birth to age three (0-3), who have delayed development or who have diagnosed conditions that are associated with development disabilities and their families. First Steps is the Missouri program in response to Part H of the Individuals With Disabilities Education Act Amendments of 1991 (P.L. 102-119);]*

*[(L) Fiscal year, July 1 of one (1) year to June 30 of the following year for the department;]*

*[(M) General provisions, standard clauses of a contractual agreement;]*

*[(N) Multiple award, contractual agreements awarded to more than one (1) offeror for comparable services at various prices if the award to a single provider would be impracticable to serve clients in a particular area;]*

*[(O) Noncompetitive negotiation, the process set out in this chapter where the Divisions of Comprehensive Psychiatric Services and Mental Retardation and Developmental Disabilities negotiate with eligible service providers. A contract(s) is awarded in accordance with the fiscal and programmatic interests of the department;]*

*[(P)] (J) Nonresponsive proposal, an [offeror's proposal which] offeror whose proposal does not conform to the mandatory or essential requirements of an RFP;*

*[(Q)] (K) Offeror, a provider or potential provider submitting a proposal in response to an RFP;*

*[(R) Preproposal conference, a meeting called by the department and held with prospective offerors after issuance of an RFP for explanation and clarification purposes;]*

*[(S)] (L) RFP, a request for a proposal developed by the department for solicitation of prospective offerors to provide certain services to clients according to certain criteria, terms and conditions specified by the department;*

*[(T)] (M) Responsive offeror, an offeror whose proposal [complies with the criteria, specifications and terms set out in an] does conform to the mandatory or essential requirements of the RFP; and*

*[(U) Service, any type of evaluation, transportation, prevention, care, treatment, habilitation or rehabilitation work for clients specified and purchased by the department from a provider as set out in this chapter;]*

*[(V)] (N) Solicitation, the process of notifying prospective offerors that the department seeks proposals to purchase certain services for clients in a certain area[.];*

*[(W) Successful offeror, an offeror who receives an award after an evaluation of proposal;]*

*[(X) Unit price, the price of providing any service for a specific unit of measurement (for example, one (1) hour, one (1) mile);]*

*[(Y) Unsuccessful offeror, an offeror not selected by the department to receive an award for specified reasons; and]*

*[(Z) Weighted average unit price, the weighted price of designated categories of units of services proposed to be provided by an offeror in response to an RFP.]*

**AUTHORITY:** sections 34.100, 630.050, **RSMo 2000** and 630.405, **RSMo [1986] Supp. 2002**. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed May 15, 1990, effective May 25, 1990, expired Sept. 21, 1990. Amended: Filed Aug. 1, 1990, effective Dec. 31, 1990. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Amended: Filed June 30, 2003.

**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 by writing to Bob Tyree, Office of Administration, Department of Mental Health, PO Box 687, 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 9—DEPARTMENT OF MENTAL HEALTH Division 25—Fiscal Management Chapter 2—Purchase of Service Contracting

### PROPOSED AMENDMENT

**9 CSR 25-2.105 Purchasing Client Services.** The department proposes to amend sections (1), (3) and (4) and to delete sections (5) through (8).

**PURPOSE:** This amendment will delete procedural language as well as clarify and update language stating the requirements for processing a Request For Proposal (RFP).

(1) As set out in sections 34.100 and 630.405, RSMo, the commissioner of administration has delegated his/her authority to the department to purchase services [for department clients] from providers directly rather than through the division of purchasing of the Office of Administration. The commissioner delegates the authority by letter to the department director on a year-to-year basis. [The department shall make immediately available to any interested person upon application a copy of any letter of delegation of authority at a cost not to exceed the actual cost of reproduction from the central office of the department, P.O. Box 687, Jefferson City, MO 65102.]

(3) The noncompetitive negotiation procedure shall be used when the department director designates an affiliated community service provider [or when the service provider is providing early intervention services for children from birth through age four (0-4), including children eligible for First Steps].

(4) [The department shall contract with designated affiliated community service providers after negotiating terms, for a period of one (1) year, with option for renewal at the department's discretion. Termination of the contract shall be for any cause defined in the contract or without cause upon sixty (60) days' notice.] **The noncompetitive negotiation procedure shall be used to establish contracts for the Division of Mental Retardation and Developmental Disabilities' Purchase of Service programs.**

[(5) The department shall use comparative evaluation, comparative negotiation and noncompetitive negotiation procedures as set out in this chapter to purchase services from private and public providers for its clients with funds appropriated to the department for this purpose as set out in section 630.405, RSMo.]

[(6) The department shall develop and issue a request for a proposal (RFP) as set out in this chapter to solicit and select the providers to provide services to department clients under duly executed contractual agreements.]

[(7) Providers shall meet applicable licensure, accreditation or certification, requirements under state and federal law. Providers shall also comply with other applicable department rules and state and federal laws.]

[(8) The department shall issue contractual agreements after awards are made to offerors for a term corresponding to a current or the new fiscal year subject to service need, appropriations and available funds as determined by the department.

(A) If so specified in the contractual agreement and RFP, the department, at its sole option, may offer to extend any contractual agreement for up to four (4) additional one (1)-year terms. In the fifth year of a contract, the department,

at its sole option, may extend the contractual agreement up to five (5) additional one (1)-year terms.

(B) Any contractual agreement, extension or option for renewal is contingent upon annual renewal of a delegation of authority from the commissioner of administration.

(C) If the department exercises the option to extend the terms, conditions and provisions of the initial contractual agreement, with duly executed amendments, shall remain in effect and apply during subsequent contractual agreement terms except that unit prices may be adjusted by the department consistent with department policy subject to appropriations and availability of funds.]

**AUTHORITY:** sections 34.100, 630.050, **RSMo 2000** and 630.405, **RSMo [2000] Supp. 2002**. Original rule filed Oct. 16, 1986, effective July 13, 1987. For intervening history, please consult the *Code of State Regulations*. Amended: Filed July 1, 2003.

**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 by writing to Bob Tyree, Office of Administration, Department of Mental Health, PO Box 687, 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 9—DEPARTMENT OF MENTAL HEALTH  
Division 25—Fiscal Management  
Chapter 2—Purchase of Service Contracting**

**PROPOSED RESCISSION**

**9 CSR 25-2.205 Request for Proposal Development.** This rule provided departmental procedures for developing requests for proposals from providers.

**PURPOSE:** The department is rescinding this rule because it establishes departmental procedures which are not appropriate subject matter for an administrative rule. The provisions of this rule will become part of a department operating regulation.

**AUTHORITY:** sections 34.100, 630.050 and 630.405, **RSMo 1986**. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Rescinded: Filed June 30, 2003.

**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 by writing to Bob Tyree, Office of Administration, Department of Mental Health, PO Box 687, 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 9—DEPARTMENT OF MENTAL HEALTH  
Division 25—Fiscal Management  
Chapter 2—Purchase of Service Contracting**

**PROPOSED AMENDMENT**

**9 CSR 25-2.305 Request for Proposal Solicitation Procedures.** The department proposes to amend provisions under sections (2), (3), (4), (6), (7), (10) and (11), to add new provisions under (5), (8), (9) and (12), and renumber sections as needed.

**PURPOSE:** This amendment deletes procedural language as well as clarifies and updates language stating the requirements for processing a Request For Proposal (RFP).

(2) The department shall post notices of the availability of the RFPs in the [purchase of service bureau] in the department's central office contracts unit. The department shall mail or otherwise distribute the RFPs or notices of the availability of the RFPs. [to all interested providers and recognized competitive bidders in a geographic area to secure comparative evaluation or comparative negotiation between more than one (1) offeror if possible (that is, in some areas only one (1) offeror can be found). Notices of availability shall indicate where, when and for how long the RFPs may be obtained and shall generally describe the services to be purchased.]

(A) If a purchase involves the estimated expenditure of more than twenty-five thousand dollars (\$25,000), the department shall advertise the notice of availability of the RFP in two (2) newspapers of general circulation. [It may also advertise in a newspaper of local circulation] in the geographic area where the services are to be provided or in places as are most likely to reach prospective sources.

[(B) [If a purchase involves the estimated expenditure of twenty-five thousand dollars (\$25,000) or less, the department may distribute the RFPs without advertising.]

[(C)] (B) The department shall make a copy of each RFP available for public inspection at the [office of its purchase of service bureau] department's central office contracts unit.

[(3) The department may conduct a preproposal conference as it deems necessary to clarify any terms and conditions of an RFP, explain any criteria in the RFP or otherwise to respond to questions from prospective offerors who have received the RFPs. The department shall schedule the conference between the RFP issuance date and the proposal closing date, but as close to the original date of mailing as possible, to allow offerors time to consider any information presented in the preparation of their proposal. If the department decides to change the RFP as a result of a preproposal conference, the change shall not become official until the RFP is amended and communicated in writing. The department shall notify prospective offerors known to have received an RFP of any such amendments.]

[(4)] (3) The department may issue amendments for any modification(s) of the RFP. The department shall plainly mark any RFP amendment as such and shall reference the portions of the RFP it amends. [The department may issue amendments for any minor modification(s) of the RFP; however, the department shall rescind the RFP and reissue it for any major modification(s) as determined by the department.] The offeror shall acknowledge receipt of any amendments issued in its proposal. [The department shall distribute amendments within a reasonable time so that the prospective offeror might consider them in preparing its proposal. If the department determines that the proposal closing time and date would not permit adequate



*preparation, the department shall extend the proposal closing time and date in the amendment and, if necessary, by telephone or other means of communication with confirmation in the amendment notice.]*

*[(5)]* (4) Offerors may modify or withdraw proposals in writing in a notice to the department at the location designated in the RFP before the proposal closing time and date. The department shall keep any modification or withdrawal documentation in the RFP file.

(5) When the procurement requires the utilization of competitive evaluation, the formal RFP solicitation method should be utilized.

(A) Proposals should be received in a sealed container by the time set forth for the opening of the proposals.

(B) Proposals received after the time set forth for the opening of proposals shall be considered late and will not be opened.

(C) Under extraordinary circumstances, the department may authorize the opening of a late proposal. In such cases, the proposal must have been turned over to the physical control of an independent postal or courier service with promised delivery time prior to the time set forth for the opening of the proposals. All such decisions are at the sole discretion of the department. The following guidelines may be utilized to determine the criteria for an extraordinary circumstance:

1. State offices were closed due to inclement weather conditions;

2. Postal or courier services were delayed due to labor strikes or unforeseen "Acts of God"; and

3. Postal or courier service did not meet delivery time promised to the offeror. In such case, the offeror must provide written proof that the promised delivery time was prior to the time set forth for the opening of the proposals.

(D) Proposals received in response to an RFP shall not be available for public review until after a contract is executed or all proposals are rejected.

*[(6)]* Any proposal received after the proposal closing time and date is nonresponsive and shall not be considered. No proposal may be withdrawn or modified after the proposal closing time and date. No late proposal, late modification(s) or late withdrawal will be considered unless received before contract award and the proposal, modification(s) or withdrawal would have been timely except for the action or inaction of the department.]

*[(A)]* The department shall notify offerors submitting late proposals that they were not considered for award and shall return their proposals unopened.]

*[(B)]* (6) The department shall keep records of each late proposal, modification(s) or withdrawal in the RFP file.

*[(7)]* The department shall electrically time-stamp each proposal, modification(s) or withdrawal indicating the time and date received. The department shall store each proposal unopened in a secure place until the proposal closing time and date.]

*[(8)]* (7) The department shall open proposals and modifications publicly [ , in the presence of one (1) or more witnesses besides the responsible department staff at the proposal closing time, date and place designated in the RFP. The department shall read aloud the name of each offeror, the unit price for each service and other information as is deemed appropriate. The department shall record a proposal abstract at the time of proposal closing and the names and addresses of witnesses in attendance at the opening] at the time and date as specified in the RFP.

(8) In the event the department receives a container which is not identifiable as a specific proposal, an authorized person within the department may open the container to determine its contents. If the contents are determined to be a proposal, the container will be resealed and the solicitation number, opening date, and time will be noted on the outside. The container will then be filed until the official time for opening.

*[(9)]* [The department shall keep any proposals timely received available for public inspection except to the extent the offeror designates any proprietary data to be confidential information as described in section 610.025, RSMo. The offeror shall specifically identify and make the confidential information readily separable in the proposal. The department shall maintain confidential information separately to facilitate public inspection of the nonconfidential portion. The unit price of any service offered and the terms of payment shall be publicly available at the time of proposal opening regardless of any designation to the contrary that this information is confidential.] After the proposal opening, an offeror may be permitted to withdraw a proposal prior to award at the sole discretion of the department, if there is a verifiable error in the proposal, and enforcement of the proposal would impose an unconscionable hardship on the offeror. The withdrawal will be considered only after receipt of a written request and supporting documentation from the offeror. Withdrawal shall be the offeror's sole remedy for an error other than an obvious clerical error.

*[(10)]* The department may allow a correction or withdrawal of a proposal because of a mistake in an RFP if the integrity of the comparative negotiation or comparative evaluation process is protected and the correction or withdrawal would not give an offeror an unfair advantage as determined by the department. An offeror may correct mistakes discovered before the proposal closing time and date by withdrawing or modifying the proposal.]

*[(11)]* (10) If mistakes in proposals are discovered after the proposal closing time and date but before award, the following procedures shall apply[:].

*[(A)]* As to) The department may allow the offeror to correct minor informalities which are matters of form rather than substance or insignificant mistakes correctable without unfair advantage to the offeror. [ , the department shall waive or allow the offeror to correct the mistake if considered by the department to be in its best interest. A minor informality can only result if the effect of correcting it is negligible on offeror responsiveness. Examples of minor informalities include failures of offerors:

1. To return the number of signed proposals required by the RFP;

2. To sign the proposals but only if the unsigned proposals are accompanied by materials otherwise indicating the offerors' intent to be bound; and

3. To acknowledge receipt of amendments to the RFPs, but only if either clear from the proposal that the offeror received the amendment and intended to be bound by its terms or the amendment had only a negligible effect on price, quantity, quality or delivery;

(B) As to any mistake obvious on the face of the proposal, the department shall correct the mistake if the intention is clearly evident on the face of the proposal document as determined by the department. These types of mistakes include typographical errors, errors in extending unit prices, transposition errors and calculation errors; and

(C) As to mistakes for which the intended correct proposal is not evident, the department may permit the offeror to

withdraw a proposal if the department determines either of the following:

1. The mistake is clearly evident to the department on the face of the proposal document but the intended proposal is not similarly evident; and

2. The offeror submits evidence which clearly and convincingly determines that a mistake has been made.]

[(12) The department shall not allow mistakes to be corrected after award unless the department determines in writing that it would be unconscionable not to allow the mistake to be corrected.]

[(13)] (11) The department shall issue a determination in writing granting or denying requests to [correct] modify or withdraw proposals because of a mistake.

(12) Contracts awarded as a result of a competitive solicitation may be amended when such an amendment is in the best interest of the department and does not significantly alter the original intent or scope of the contract.

*AUTHORITY:* sections 34.100, 630.050, **RSMo 2000** and 630.405, **RSMo [2000] Supp. 2002**. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 31, 2000, effective May 30, 2001. Amended: Filed June 30, 2003.

*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 by writing to Bob Tyree, Office of Administration, Department of Mental Health, PO Box 687, 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 9—DEPARTMENT OF MENTAL HEALTH**  
**Division 25—Fiscal Management**  
**Chapter 2—Purchase of Service Contracting**

**PROPOSED AMENDMENT**

**9 CSR 25-2.405 RFP Evaluation and Award.** The department proposes to amend section (1), delete sections (3)–(9) and add new sections (3)–(5).

*PURPOSE:* This amendment will delete procedural language as well as clarify and update language stating the requirements for processing a Request For Proposal (RFP).

(1) All proposals received [before] by the closing time and date shall be reviewed by the department.

[(3) When the request for proposal stipulates the procurement procedure to be noncompetitive negotiation, the following procedures shall be taken:

(A) A negotiation officer/team shall conduct negotiations, as appropriate to price, scope of work and needed services;

(B) The negotiation officer/team should make a list of specific objectives relating to price, performance standards and other conditions in preparation of the negotiations;

(C) The negotiation officer/team and the offeror shall negotiate the items specified as the specific objectives;

(D) A record of services procured through the noncompetitive negotiation procedures shall be maintained that lists—

1. Each contractor's name;

2. The amount and location of each contract; and

3. The services procured under each contract; and

(E) Should the department be unable to negotiate an acceptable contract, other offerors may be solicited by any procurement method allowed by this rule.]

[(4) When the request for proposal stipulates the procurement procedure to be comparative negotiation, the following procedures shall be taken:

(A) If one (1) proposal is received from a responsive offeror, the department shall evaluate it to determine the award. The department may give the offeror an opportunity to revise the proposal if any proposal elements are not acceptable by the department or are contrary to the RFP and do not negate the competitive process. The department shall evaluate the unit price(s) by comparing it with the average unit prices the department currently pays or has previously paid for the services in the area;

(B) If only two (2) proposals are received, the department shall also evaluate the weighted average unit prices by comparing each proposal and the average unit prices the department currently pays or has previously paid for the services in the area;

(C) If more than two (2) proposals from responsive offerors are received offering to provide the same services in a geographic area specified in an RFP, the department shall determine if any of the proposals contain desirable elements not specified in the RFP. Where a change in the RFP results, the department shall inform the responsive offerors of the change in desirable elements. Where a change has resulted, each responsive offeror may submit a revised and final proposal based upon the original RFP and the subsequent list of desirable elements for reevaluation; and

(D) If three (3) or more proposals are received, the department shall evaluate weighted average unit price by comparing the average unit prices from the responsive offerors.]

[(5) When the request for proposal stipulates the procurement procedure to be comparative evaluation, the resulting contract shall be awarded to the best proposal to the department. After determining responsiveness, all proposals will be evaluated in accordance with the evaluation categories, respective weight criteria or method of evaluation as listed in the RFP. For alcohol and drug abuse services, the department may conduct negotiations with the responsive offerors as described in the RFP. If negotiations are conducted for alcohol and drug abuse services, the negotiation proceedings shall be public.]

[(6) An award or multiple awards shall be selected by the department based on the lowest and best proposal(s). If the department chooses not to select any proposal submitted in response to any RFP, the department shall issue another RFP or shall forego purchasing the particular service(s) in the area.]

[(7) The department reserves the right to make multiple awards when a single provider is unable to meet the units of service required geographically and other factors considered.

*RFP criteria, service quantity, scope of work, and the like, will determine the possibility of multiple awards. A record showing the basis for determining the successful offerors shall be made a part of the procurement file.]*

*[(8) The evaluation committee or individual designated to evaluate the proposals shall recommend award to the contracts' coordinator for review and recommendation to the director of the division, or designee, for which the services are to be purchased. If the division approves the award, the purchase of service unit shall forward the contract to the deputy director of administration (mental health) for signature. Upon signature by the deputy director of administration (mental health), the contract is final.]*

*[(9) The department shall make the notice of award available to the public.]*

**(3) The department may negotiate with responsive offerors as described in the RFP.**

**(4) The department reserves the right to make multiple awards.**

**(5) After an award is made, the solicitation file and notice of award shall be made available to the public for inspections at any time during regular working hours.**

*AUTHORITY: sections 34.100, 630.050, RSMo 2000 and 630.405, RSMo [1986] Supp. 2002. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed May 15, 1990, effective May 25, 1990, expired Sept. 21, 1990. Amended: Filed Aug. 14, 1990, effective March 14, 1991. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Amended: Filed June 30, 2003.*

*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 by writing to Bob Tyree, Office of Administration, Department of Mental Health, PO Box 687, 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 9—DEPARTMENT OF MENTAL HEALTH**

### **Division 30—Certification Standards**

#### **Chapter 3—Alcohol and Drug Abuse Programs**

#### **PROPOSED AMENDMENT**

**9 CSR 30-3.132 Opioid Treatment Program.** The department proposes to amend sections (4), (9), (12) and (13).

*PURPOSE: This amendment makes the language in the rule consistent with federal guidelines on Opioid Treatment Programs.*

**(4) Services.** The program shall provide a range of treatment and rehabilitation services to address the therapeutic needs of persons served.

**(A) Services shall include:**

1. Individual counseling, group education, and counseling, family therapy, community support;

2. Medical evaluations; *[and]*

3. Use of methadone for medically supervised withdrawal from narcotics and for ongoing opioid treatment.

A. Medically supervised withdrawal means the dispensing of methadone in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incidental to withdrawal from the continuous or sustained use of narcotics and in order to bring the individual to a drug-free state within a one hundred eighty (180)-day time period.

B. Ongoing opioid treatment means the dispensing of methadone for more than one hundred eighty (180) days in the treatment of an individual for dependence on heroin or other morphine-like drug~~s~~.; **and**

**4. Medical director shall insure that dosage is appropriate to the patient's need.**

(C) The program shall offer services at least six (6) days per week. Services shall be available during early morning or evening so that clients who are employed or otherwise involved in productive, daily activities can access services.

**(D) Programs in the same geographical area shall work together to maximize hours of operation and treatment accessibility.**

(9) Program Rules. In order to remain in the program and to successfully progress through the phases of treatment and rehabilitation, a client shall demonstrate progress and shall comply with program rules.

(A) An infraction of program rules by a client may result in administrative *[detoxification withdrawal]* medical withdrawal from methadone and termination from the program.

**(D) Administrative medical withdrawal shall be scheduled in such a way as to minimize the psychological and physical effects of such withdrawal. Administrative medical withdrawal shall be completed in a manner appropriate to the client's level of medication and the circumstances justifying such action. Programs may facilitate a transfer to another program or referral to a medical facility in lieu of administrative medical withdrawal.**

(12) *[Urine]* Drug Testing. The program shall use *[urinalysis]* drug testing as a performance measure and as a clinical tool for the purpose of diagnosis and treatment planning.

(A) Each *[urine]* sample shall be analyzed for opiates, methadone, amphetamines, cocaine, barbiturates, and benzodiazepines. Testing shall include other drugs as may be indicated by a client's use patterns. In addition, if any other drug or drugs have been determined by a program to be abused in that program's locality, or as otherwise indicated, each test or analysis must include any such drugs.

(13) Take-Home Doses. The program shall implement practices in accordance with the principle that take-home doses of methadone is a privilege given only to those individuals who will benefit from it and who have demonstrated responsibility in taking methadone as prescribed.

**(D) The program shall have policies that address the responsibilities of patients granted take-home medications. The policies shall include methods of assuring client's appropriate use and storage of medication.**

**(E) The program shall have policies in place addressing the return of take-home bottles. Policies shall include bottles returned with labels intact and consequences of unreturned bottles.**

*[(D)](F)* Regardless of time in treatment, the medical director, in his/her reasonable judgment, may deny or rescind the take-home medication privileges of a client.

*AUTHORITY: sections 630.655 and 631.102, RSMo 2000. This rule originally filed as 9 CSR 30-3.610. Original rule filed May 13, 1983,*



effective Sept. 13, 1983. For intervening history, please consult the *Code of State Regulations*. Amended: Filed July 1, 2003.

**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 by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, 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 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED AMENDMENT**

**11 CSR 45-13.010 All Types of Hearings.** The commission is amending section (1).

**PURPOSE:** The commission proposes to amend section (1) of this rule to identify the petitioner in all commission hearings.

(1) The rules contained in this chapter shall govern all hearings of the commission. **In all hearings before the commission, the applicant or licensee shall be the petitioner.**

**AUTHORITY:** sections 313.004, 313.052, **313.065**, 313.560, 313.800 and 313.805, RSMo [1994] **2000**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998. Amended: Filed June 30, 2003.

**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 10:00 a.m., September 3, 2003, in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED AMENDMENT**

**11 CSR 45-13.020 Hearing Officer.** The commission proposes to add section (5).

**PURPOSE:** This amendment authorizes the commissioners to conduct hearings without using a hearing officer.

**(5) Notwithstanding the foregoing, the commission may by majority vote designate one (1) or more gaming commissioners to act as a hearing officer and conduct any hearing over which the commission has jurisdiction.**

**AUTHORITY:** sections 313.004, 313.052, **313.065**, 313.560, 313.800 and 313.805, RSMo [1994] **2000**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998. Amended: Filed June 30, 2003.

**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 10:00 a.m., September 3, 2003, in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED AMENDMENT**

**11 CSR 45-13.030 Requests for Hearings.** The commission is amending section (2) and renumbering section (4) as section (3).

**PURPOSE:** This amendment clarifies that the time period to submit a request for hearing commences with the date of mailing a notice of commission action.

(2) A request for hearing must be submitted within thirty (30) days [after service] from the date of mailing by the commission of the decision or issue about which the petitioner requests a hearing.

[[4]] (3) The petitioner shall be served with written notice of the time and place of hearing by—

- (A) Personal delivery;
- (B) Certified mail, postage prepaid; or
- (C) Overnight express mail, postage prepaid.

**AUTHORITY:** sections 313.004, 313.052, **313.065**, 313.560, 313.800 and 313.805, RSMo [1994] **2000**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997,

expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998. Amended: Filed June 30, 2003.

**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 10:00 a.m., September 3, 2003, in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED RULE**

**11 CSR 45-13.045 Suitability Hearings for Gaming Applicants and Exclusion Hearings**

**PURPOSE:** This rule authorizes hearings for applicants found to be unsuitable for licensing and persons placed on an exclusion list.

(1) A person whose application for a gaming license has not been granted for failing to establish suitability to hold a license or who has been placed on an exclusion list pursuant to 11 CSR 45-15.040(1) may request a hearing under this chapter.

(2) The commission may authorize the director to investigate and make the initial finding of unsuitability with regard to any applicant for or holder of a license of the type that may be issued by the director pursuant to 11 CSR 45-4.260(1).

(3) Whenever the commission finds an applicant unsuitable for licensing, the commission shall send a written letter to the applicant outlining the reasons for the finding, including both the applicable criteria for suitability that the applicant has established and those criteria that the applicant has failed to establish. This letter shall be sent certified mail, return receipt requested or by personal delivery. Within thirty (30) days from the date of mailing, the licensee shall file a request for hearing by serving it on the director. If a request for hearing is not filed, the letter shall become a final order of the commission.

**AUTHORITY:** sections 313.004, 313.560, 313.800 and 313.805, RSMo 2000. Original rule filed June 30, 2003.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must

be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m., September 3, 2003, in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED AMENDMENT**

**11 CSR 45-13.050 Disciplinary Action Against Gaming Licensees.** The commission is amending sections (1) and (2), deleting sections (4) and (6) and renumbering and amending section (5).

**PURPOSE:** This amendment provides for disciplinary action against gaming licensees.

(1) When notified of facts sufficient to support disciplinary action against a **gaming** licensee under the applicable statutes or rules, the commission may propose disciplinary action against a licensee. If the commission proposes disciplinary action, it shall notify the licensee of the disciplinary action proposed *[. Notification shall be]* by certified mail, *[. Included]* **including** with the notification *[shall be]* a proposed order for disciplinary action.

(2) The proposed order shall include a statement of facts supporting the disciplinary action, *[and]* the rule or statutory section *[with violation of which]* the licensee is being charged **with violating** and **the** penalty proposed. The proposed order shall be accompanied by a certificate of service demonstrating the date of service.

*[(4) Whenever the commission finds an applicant unsuitable for licensing, the commission shall send a written letter to the applicant outlining the reasons for the finding. This letter shall be sent certified mail, return receipt requested or by personal delivery. Within thirty (30) days from the date of the mailing, the licensee shall file his/her/its request for hearing by serving it on the director. If a request for hearing is not filed, the denial shall become a final order of the commission.]*

*[(5)] (4)* The commission may authorize the director to investigate and *[make the initial finding of unsuitability or]* to issue a proposed order for disciplinary action with regard to any applicant for or holder of a license of the type that may be issued by the director **pursuant to 11 CSR 45-4.260(1)**. *[and with regard to any bingo licensee. If the director takes such action, s/he shall notify the commission and provide to the commission a copy of the letter regarding unsuitability or the proposed order for disciplinary action.]*

*[(6) In all disciplinary actions and licensing hearings, the applicant or licensee shall be the petitioner.]*

**AUTHORITY:** sections 313.004, *[313.052,]* 313.560, 313.800 and 313.805, RSMo *[1994]* 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 7, 1995, effective June 30, 1996. Amended: Filed Aug. 30, 1996, effective April 30, 1997. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998. Amended: Filed March 1, 1999, effective Oct. 30, 1999. Amended: Filed June 30, 2003.

*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 10:00 a.m., September 3, 2003, in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED RULE**

**11 CSR 45-13.051 Bingo Hearings**

*PURPOSE:* This rule sets forth procedures for hearings related to bingo applicants and licensees.

(1) A person whose application for a bingo license has not been granted for failing to establish suitability to hold a license or against whom a disciplinary action has been initiated may request a hearing under this chapter.

(2) The commission may authorize the director to investigate and make the initial finding of unsuitability or to issue a proposed order for disciplinary action with regard to any applicant for or holder of a license of the type that may be issued by the director pursuant to 11 CSR 45-30.065(3).

(3) Whenever the commission finds an applicant unsuitable for licensing, the commission shall send a written letter to the applicant outlining the reasons for the finding. This letter shall be sent certified mail, return receipt requested or by personal delivery.

(4) When notified of facts sufficient to support disciplinary action against a bingo licensee under the applicable statutes or rules, the commission may propose disciplinary action against a licensee. If the commission proposes disciplinary action, it shall notify the licensee of the disciplinary action proposed by certified mail.

(5) Any licensee who receives a notice of commission action shall have thirty (30) days to respond in writing to the commission. The licensee may accept the proposed action, request a hearing on the proposed action before the Missouri Administrative Hearing Commission (AHC), or waive a hearing before the AHC and request a hearing before a commission hearing officer regarding the amount or nature of any discipline to be imposed or other proposed action. If the licensee fails to respond to the notice of commission action within thirty (30) days or if the licensee requests a hearing before the AHC, the commission shall file a complaint on the proposed action with the AHC for a hearing as set forth in Chapter 621, RSMo.

(6) If the AHC does not find a factual basis to support the notice of commission action, the matter will be dismissed and no action will be taken against the licensee.

(7) If the AHC finds a factual basis to support the notice of commission action or accepts a waiver of hearing from the licensee, the case will be returned to the commission to determine and impose the appropriate discipline or other action.

(A) Upon receiving the case from the AHC, the commission will send information in writing by certified mail to the licensee stating that the proposed notice of commission action will be imposed against the licensee. The letter will provide the licensee thirty (30) days to file a request for hearing with the commission concerning the amount or severity of the discipline or other action.

(B) If the licensee does not file a request for hearing within thirty (30) days, the notice of commission action will be submitted to the commission for approval.

(C) If the licensee requests a hearing, a hearing will be conducted before a commission hearing officer regarding the appropriateness of the penalty to be assessed. The hearing officer shall make a recommendation of discipline or other action to the commission.

*AUTHORITY:* sections 313.004, 313.015, 313.052 and 313.065, RSMo 2000. Original rule filed June 30, 2003.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m., September 3, 2003, in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED AMENDMENT**

**11 CSR 45-13.060 Proceedings.** The commission is amending section (4), deleting sections (5), (6), (7) and (9), renumbering sections (8), (10) and (11), and adding a new section (8).

*PURPOSE:* This amendment makes changes to hearing procedures and authorizes a finding against the petitioner for failure to appear.

(4) Both parties may present an opening statement on the merits. Petitioner proceeds first to **present evidence, except in the case of disciplinary actions against gaming licensees, in which case the commission shall present evidence first. The hearing officer shall then hear evidence from the other party and any evidence in rebuttal.**

*[(5) The petitioner shall then present its case-in-chief.]*

*[(6) Upon conclusion of the petitioner's case-in-chief, the respondent may move for a directed finding. The hearing officer may hear arguments on the motion or may grant, deny or reserve decision on the motion, without argument.]*



[[7] If no motion for directed finding is made, or if the motion is denied or decision reserved on the motion, the respondent may present its case.]

[[8]] (5) Each party may conduct cross-examination of adverse witnesses.

[[9] Upon conclusion of the respondent's case, the petitioner may present evidence in rebuttal.]

[[10]] (6) Both parties may present closing argument. [The petitioner proceeds first, then the respondent and after that the petitioner may present rebuttal argument.] **The party who presented evidence first shall argue first, then the other party, followed by any rebuttal argument.**

[[11]] (7) The parties may request, or the hearing officer may require, that the parties submit briefs.

**(8) Failure of the petitioner to appear at the hearing shall constitute an admission of all matters and facts alleged by the commission in its notice of commission action and a waiver of the petitioner's rights to a hearing, but the commission in its discretion may nevertheless order a hearing.**

*AUTHORITY:* sections 313.004, 313.052, 313.065, 313.560, 313.800 and 313.805, RSMo [1994] 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998. Amended: Filed June 30, 2003.

*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 10:00 a.m., September 3, 2003, in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED AMENDMENT**

**11 CSR 45-13.070 Transmittal of Record and Recommendation to the Commission.** The commission is amending sections (1), (3) and (4).

*PURPOSE:* This amendment describes the contents of the official record, provides for notice to the petitioner of the hearing officer's findings, authorizes comments by the parties to those findings, and provides the commission the discretion to require oral argument.

(1) The record shall consist of the following:

(A) The commission's notice to petitioner, the Request for Hearing and all motions and rulings on the Request [of] for Hearing;

(D) Offers of proof, objections and ruling on them; [and]

(E) All pleadings filed by either party;

(F) The transcript of the hearing;

(G) All briefs filed by either party;

(H) A proposed resolution approving the recommendations of the hearing officer;

(I) Any objections filed by either party to the hearing officer's written findings of fact, conclusions of law and recommendations; and

[[E]] (J) The recommendations and any findings of fact and conclusions of law made by the hearing officer.

(3) Upon conclusion of the hearing, the hearing officer shall issue to the commission **and the petitioner** written [F]findings of [F]fact and [C]conclusions of [L]law and his/her recommendations **at least twenty (20) days prior to the public meeting at which the case is to be considered by the commission.** Findings of [F]fact shall be based exclusively on the evidence and on matters officially noticed. **The parties may file written objections or comments with the commission to the proposed findings of fact, conclusions of law and recommendations issued by the hearing officer at least ten (10) days prior to the public meeting at which the case is to be considered by the commission.**

(4) Final Commission Order.

(A) The commission shall review the entire record and shall render a written decision on the merits which shall contain findings of fact and conclusions of law, and after that will issue a final Commission Order. [The commission may adopt the findings of fact and conclusions of law issued by the hearing officer.] **The commission may require at its discretion that the parties present oral argument before the commission. The commission may take any of the following actions:**

**1. The commission may adopt the findings of fact, conclusions of law and recommendations of the hearing officer as its final Commission Order;**

**2. The commission may modify the findings of fact, conclusions of law and recommendations submitted by the hearing officer;**

**3. The commission may dissolve the findings of fact, conclusions of law and recommendations submitted by the hearing officer; or**

**4. The commission may remand the matter, with instructions, to the hearing officer for further proceedings.**

*AUTHORITY:* sections 313.004, 313.052, 313.065, 313.560, 313.800 and 313.805, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998. Amended: Filed Dec. 7, 2001, effective June 30, 2002. Amended: Filed June 30, 2003.

*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 10:00 a.m., September 3, 2003, in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED RULE**

**11 CSR 45-13.080 Prohibition on Ex Parte Communications**

*PURPOSE:* This rule prohibits ex parte contacts between the parties and a hearing officer.

(1) A party or its representative shall not communicate directly or indirectly with the hearing officer regarding any pending matter, except upon notice and opportunity for all parties to participate.

(2) The prohibition on ex parte communications commences with the filing of a request for hearing pursuant to 11 CSR 45-13.030.

(3) Communications with the hearing officer involving scheduling or uncontested procedural matters do not require notice or the opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the hearing officer when feasible, and shall notify other parties when seeking to continue hearings or extend other deadlines.

(4) The hearing officer may recommend sanctions and penalties if the hearing officer determines that a party has violated this rule. Such sanctions and penalties include, but are not limited to, censure, default judgment, or a directed finding on one (1) or more issues.

*AUTHORITY:* sections 313.004, 313.065, 313.560, 313.800 and 313.805, RSMo 2000. Original rule filed June 30, 2003.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m., September 3, 2003, in the Missouri Gaming Commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.036 Sales Made by Employers to Employees.** This rule interpreted the sales tax law as it applied to sales made by employers to employees and interpreted and applied section 144.020, RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. This rule was previously filed as rule no. 43 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-4 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed June 30, 2003.

*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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.046 Caterers and Mandatory Gratuities.** This rule interpreted the sales tax law as it applied to caterers and mandatory gratuities, and interpreted and applied section 144.010, RSMo.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 144.270, RSMo 1994. S.T. regulation 010-19 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed June 30, 2003.

*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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.120 Food Stamps and W.I.C. (Women, Infants and Children) Vouchers.** This rule interpreted the sales tax law as it applied to food stamps and interpreted and applied sections 144.010 and 144.021, RSMo.

*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 010-53 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Emergency amendment filed Sept. 24, 1987, effective Oct. 4, 1987, expired Feb. 1, 1988. Amended: Filed Sept. 24, 1987, effective Jan. 29, 1988. Rescinded: Filed June 30, 2003.*

*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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue

#### Chapter 3—State Sales Tax

#### PROPOSED RESCISSION

**12 CSR 10-3.176 Fees Paid in or to Places of Amusement, Entertainment or Recreation.** This rule interpreted the sales tax law as it pertains to the taxation of fees paid in or to places of amusement, entertainment or recreation.

*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 49 April 20, 1974, effective April 30, 1974. S.T. regulation 010-82 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. For intervening history, please consult the Code of State Regulations. Rescinded: Filed June 30, 2003.*

*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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue

#### Chapter 3—State Sales Tax

#### PROPOSED RESCISSION

**12 CSR 10-3.486 Confidential Nature of Tax Data.** This rule provided that the Department of Revenue must comply with the confidentiality provisions in section 32.057, RSMo.

*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 120-1 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed June 30, 2003.*

*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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue

#### Chapter 3—State Sales Tax

#### PROPOSED RESCISSION

**12 CSR 10-3.836 Payment of Filing Fees for Lien Releases.** This rule clarified the payment of filing fees to the county recorder for lien releases (section 144.380, RSMo).

*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: section 144.270, RSMo 1994. Original rule filed Nov. 19, 1986, effective March 12, 1987. Rescinded: Filed June 30, 2003.*

*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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue

#### Chapter 3—State Sales Tax

#### PROPOSED RESCISSION

**12 CSR 10-3.838 Payment of Filing Fees for Tax Liens.** This rule clarified the payment of filing fees to the county recorder for tax liens (section 144.380, RSMo).



*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: section 144.270, RSMo 1994. Original rule filed Nov. 19, 1986, effective March 12, 1987. Rescinded: Filed June 30, 2003.*

*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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
*[Chapter 23—Motor Vehicle]*  
**Chapter 26—Dealer Licensure**

**PROPOSED AMENDMENT**

**12 CSR 10-[23.050] 26.190 Dealers' Monthly Reports.** The director proposes to amend the chapter, rule number, purpose, and sections (1), (3), (4), and (5) and delete the annotation and the form that follows this rule in the *Code of State Regulations*.

*PURPOSE: This rule is being amended for consistency and clarity.*

*PURPOSE: The director of the Department of Revenue is [charged with the responsibility of] responsible for receiving dealers' monthly sales reports and [securing] secure power of attorney forms. This rule establishes time limits and guidelines concerning the submission of those reports and forms.*

(1) Every motor vehicle and boat dealer [shall] **must** file a monthly sales report on a form prescribed by the director of revenue in accordance with section 301.280, RSMo. This report shall be completed in full and actually received by the Department of Revenue on or before the fifteenth day of the month following the month for which the sales are being reported. (Example: Sales occurring during the month of July must be filed on or before August 15.)

(3) No motor vehicle or boat dealer, [his/her] agent or representative shall willfully or knowingly make a false statement in any monthly sales report required by section 301.280, RSMo and this rule; nor shall [s/he, his/her] the agent or representative omit any information requested or fail to report any sale made by the dealership.

(4) Every motor vehicle and boat dealer shall retain copies of the sales reports submitted to the Department of Revenue as part of the records to be maintained at the dealership location as provided in section 301.560.1, RSMo and shall hold them available for inspection by appropriate law enforcement officials, **and** officials of the Department of Revenue [and the Motor Vehicle Commission].

(5) Every motor vehicle dealer shall submit the original **blue copy of the** secure power of attorney form (see 12 CSR 10-23.420) in which the dealer is listed as purchaser and a copy of the corresponding certificate of title with the dealer's monthly sales reports as provided in 12 CSR 10-23.420. [Secure power of attorney forms and

*copies of the corresponding titles received by a dealer in a particular month should be submitted with the sales report completed for that month.]*

*AUTHORITY: sections 32.057[, RSMo 1986] and 301.280, RSMo 2000 and 301.560.1, RSMo Supp. [1990] 2002. Original rule filed April 14, 1980, effective Sept. 12, 1980. Amended: Filed March 26, 1982, effective July 12, 1982. Amended: Filed Sept. 3, 1985, effective Jan. 26, 1986. Amended: Filed May 27, 1986, effective Aug. 25, 1986. Amended: Filed March 25, 1991, effective Aug. 30, 1991. Amended: Filed June 24, 2003.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 23—Motor Vehicle**

**PROPOSED AMENDMENT**

**12 CSR 10-23.300 [Marking and] Use of Local Commercial Motor Vehicle License Plates for Farm or for Farming Transportation Operations.** The director proposes to amend the title, purpose and sections (1)–(3) and delete section (4).

*PURPOSE: This rule is being amended for consistency and clarity.*

*PURPOSE: This rule sets forth the manner of [marking and] the use of local commercial motor vehicle license plates issued to motor vehicles used for farm or farming transportation operations.*

(1) Any applicant who requests a farm license plate will be issued a local commercial license plate for the appropriate gross weight category and an "F" tab. The tab (which shall be a black letter F on a yellow background) **referred to as a "farm" tab**, should be affixed to the license plate in the lower left-hand corner. If the owner is issued Local 6000 or Local 12,000 license plates, two (2) **farm** tabs must be issued. If the owner is issued a Local 18,000 through [73,280 (72 +)] **80,000** license plate, [only] one (1) **farm** tab will be issued. The **farm** tab(s) shall be issued at no fee.

(2) A farmer operating his/her truck on a [marked] local commercial motor vehicle license plate **with a farm tab** may travel beyond the [twenty-five (25)] **fifty (50)** mile limit as defined in section 301.010/[13]/(25), RSMo while empty or loaded. If the motor vehicle is loaded, the property being transported must be going to or from the farm for use in the operation of the farm.

(3) A farmer operating on a [marked] local commercial motor vehicle license plate **with a farm tab** may not make a for hire haul.

[4] *A farmer operating on a marked local commercial 72 + pound license plate may legally haul up to eighty thousand pounds (80,000 lbs.) gross weight provided s/he meets all other requirements of the weight law.]*

*AUTHORITY: section 301.030, RSMo [1986] 2000. Original rule filed June 9, 1986, effective Sept. 26, 1986. Amended: Filed June 24, 2003.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED AMENDMENT**

**12 CSR 10-23.330 Registration of Motorcycles [and] or Motortricycles.** The director proposes to amend the title, purpose, and sections (2) and (3).

*PURPOSE: This rule is being amended for consistency and clarity.*

*PURPOSE: This rule clarifies the procedures for issuance of motorcycle [and] or motortricycle license plates.*

(2) The motorcycle[//] or motortricycle license plate [is a multi-year license plate. It] shall be renewable [each year] by the issuance of a [validation] tab. Motorcycle[//] or motortricycle license plates expire [annually] on April 30 of the registration period.

(3) The registration fee for a motorcycle or motortricycle purchased or acquired in any given month, and for which the owner does not hold a motorcycle or motortricycle license plate to transfer, shall be prorated based upon the number of months from the date of operation until April of the [following year] expiration of the registration year.

*AUTHORITY: sections 301.055 and 301.080, RSMo [Supp. 1987] 2000. Original rule filed July 25, 1986, effective Nov. 28, 1986. Amended: Filed June 24, 2003.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED AMENDMENT**

**12 CSR 10-23.370 Issuance of Certificates of Title to Recreational Vehicles Manufactured by Two Separate Manufacturers.** The director proposes to amend section (1).

*PURPOSE: This rule is being amended for consistency and clarity.*

(1) [Where] **When** recreational vehicles or motor homes [which] are manufactured by [two (2)] separate manufacturers [may] and have [two (2)] separate and distinct Manufacturers' Statements of Origin (MSO) issued for [one (1)] the unit, the following titling procedures shall apply:

(A) When an application for a Missouri certificate of title to a new recreational vehicle or motor home [reflects a make other than that of a commonly known manufacturer, such as a Ford, Chevrolet, GMC, Dodge] is submitted, both the [Manufacturer's Statement of Origin] MSO issued by the vehicle's chassis or first-stage manufacturer and the [Manufacturer's Statement of Origin] MSO issued by the vehicle's final-stage manufacturer must accompany the application;

(B) The year model assigned to the recreational vehicle shall be obtained from the [Manufacturer's Statement of Origin] MSO issued by the recreational vehicle's final-stage manufacturer;

(C) The vehicle make assigned to a vehicle shall be obtained from the [Manufacturer's Statement of Origin] MSO issued by the vehicle's final-stage manufacturer. For example, first-stage manufacturer, Chrysler Corporation builds a Dodge chassis which is subsequently made into a recreational vehicle or motor home by the final-stage manufacturer, Winnebago. The make of the vehicle will be Winnebago. Note, however, that the make of a Ford van converted by a custom converter to a recreational vehicle which does not meet the requirements of a motor home detailed in section (2) must remain a Ford; and

(D) The vehicle identification number (VIN) assigned to the recreational vehicle or motor home shall be the chassis identification number shown on the first-stage [Manufacturer's Statement of Origin] MSO. For example, the VIN for a completed Winnebago recreational vehicle or motor home manufactured on a Dodge chassis will be the identification number assigned by Chrysler Corporation to the Dodge chassis.

*AUTHORITY: sections 301.010, 301.190 and 301.200, RSMo [1986] 2000. Original rule filed Dec. 2, 1986, effective March 12, 1987. Amended: Filed June 24, 2003.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle Bureau**

**PROPOSED AMENDMENT**

**12 CSR 10-23.420 Secure Power of Attorney Requirements.** The director proposes to amend subsection (2)(A), delete section (3), and

amend and renumber section (4), and renumber existing sections and delete the form that follows this rule in the *Code of State Regulations*.

*PURPOSE: This rule is being amended for consistency and clarity.*

(2) For any motor vehicles purchased by a dealer on or after November 28, 1990, where the dealer elects not to apply for title in the dealership's name, the purchasing dealer listed on a secure power of attorney form (DOR-3020S) shall attach—

(A) The top sheet (dark brown) of the secure power of attorney form, which has been completed in full and signed by all sellers and an authorized agent of the purchasing dealer, to the assigned certificate of ownership and give both to the purchaser *[or, if a lien is shown, to the lienholder]*; and

*[(3) If the old secure power of attorney form (DOR-3020) is used, the purchasing dealer shall attach—*

*(A) The top sheet (light brown) of the secure power of attorney form to a photocopy of the front and back of the assigned title showing the restatement of the mileage and the assignment properly completed as authorized by the secure power of attorney form, and submit both with the dealer's monthly sales report; and*

*(B) The second sheet (yellow carbon copy) of the secure power of attorney form, which has been completed in full and signed by all sellers and an authorized agent of the purchasing dealer, to the assigned certificate of ownership and give both to the purchaser or, if a lien is shown, to the lienholder.]*

*[(4)] (3) The secure power of attorney form and corresponding certificate of ownership shall accompany the purchaser's application for title. [If a lien is involved, these documents must accompany the lien perfection copies of the application.]*

*[(5)] (4) Secure power of attorney forms and copies of corresponding titles received by a dealer in a particular month shall be submitted with the sales report completed for the month. The dealer shall ensure that the original and all other copies of the secure power of attorney form and certificate of title are completed in full and are legible. The dealer shall retain a photocopy of the secure power of attorney form and the front and back of the corresponding certificate of ownership as a part of the dealership's records for a period of five (5) years.*

*[(6)] (5) A Missouri motor vehicle dealer may buy and sell a motor vehicle out-of-state when a secure power of attorney form accompanies the title. When an out-of-state secure power of attorney form is involved, the Missouri dealer shall obtain the appropriate copy of the secure power of attorney form and the certificate of title, but shall not be required to submit copies of those documents with the dealer's sales report.*

*[(7)] (6) A motor vehicle dealer listed as the purchaser on the secure power of attorney form may elect to title the vehicle in the dealership's name by submitting the original secure power of attorney form and the original ownership document with the dealer's application for title.*

*AUTHORITY: section 407.536.8, RSMo [Supp. 1990] 2000. Emergency rule filed March 11, 1991, effective March 21, 1991, expired July 17, 1991. Emergency rule filed July 9, 1991, effective July 19, 1991, expired Nov. 15, 1991. Original rule filed March 11, 1991, effective Aug. 30, 1991. Amended: Filed July 2, 1992, effective Feb. 26, 1993. Amended: Filed June 24, 2003.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle Bureau**

**PROPOSED RESCISSION**

**12 CSR 10-23.436 Application For Title.** This rule clarified when the newly revised application for title was to be presented to the Department of Revenue.

*PURPOSE: This rule is being rescinded because it is no longer applicable.*

*AUTHORITY: sections 301.190, 301.700 and 700.320, RSMo 1994. Original rule filed Nov. 28, 1994, effective May 28, 1995. Rescinded: Filed June 24, 2003.*

*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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED RESCISSION**

**12 CSR 10-23.444 Historic Vehicle License.** This rule allowed a vehicle registered pursuant to subsection 5 of section 301.131, RSMo, and displayed a license plate manufactured prior to 1979 to be operated on the highways of this state without displaying validation tabs.

*PURPOSE: This rule is being rescinded because it is no longer applicable.*

*AUTHORITY: section 301.131, RSMo Supp. 1998. Original rule filed March 12, 1999, effective Sept. 30, 1999. Rescinded: Filed June 24, 2003.*



**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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED RULE**

**12 CSR 10-23.458 Documents Accepted as a Release of Lien**

**PURPOSE:** This rule clarifies what documents are acceptable to the Department of Revenue to release a lien on a motor vehicle, trailer, all-terrain vehicle, outboard motor, vessel, or manufactured home.

(1) Every release of lien for a motor vehicle, trailer, all-terrain vehicle, outboard motor, vessel, or manufactured home issued on or after July 1, 2003, must be notarized.

(2) The following notarized documents will be accepted as a lien release for liens released on or after July 1, 2003.

(A) Notice of Lien Release (DOR-4809), which can be requested from the Department of Revenue's website at <http://www.dort.state.mo.us/mvdl/formorder>; or

(B) Lien release issued on the lienholder's business letterhead. The release shall contain the owner's name, year, make, vehicle identification number, lien release date, and lienholder name and signature.

**AUTHORITY:** sections 301.640, 306.410, 306.420 and 700.370, RSMo Supp. 2002. Original rule filed June 24, 2003.

**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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 24—Drivers License Bureau Rules**

**PROPOSED AMENDMENT**

**12 CSR 10-24.385 School Bus Permits.** The director proposes to amend sections (1) and (2).

**PURPOSE:** This amendment establishes the two (2) types of school bus permits to be issued to school bus operators.

(1) There shall be two (2) types of school bus permits [in Missouri. The holder of each permit may drive any school bus which is any motor vehicle, publicly or privately owned, to transport students to and from school, or when properly chaperoned within the state for educational purposes provided the person holds a valid Missouri or out-of-state drivers license.

(2) The two (2) permits shall be issued as follows:

(A) Type 1—to a school bus operator transporting sixteen (16) or more persons including the driver or operating a vehicle that is designed to transport sixteen (16) or more persons including the driver. **Type 1 permit holders must also possess a valid commercial driver license with the appropriate classification and endorsement(s) for the school bus being operated.** The holder of a Type 1 school bus permit may also drive any school bus which may be driven by the holder of a Type 2 school bus permit; and

(B) Type 2—to a school bus operator operating a vehicle that is designed to transport fifteen (15) or fewer persons including the driver.

**AUTHORITY:** section 302.272, RSMo [Supp. 1997] 2000. Emergency rule filed June 7, 1991, effective June 17, 1991, expired Oct. 4, 1991. Emergency rule filed Sept. 24, 1991, effective Oct. 4, 1991, expired Jan. 31, 1992. Original rule filed June 7, 1991, effective Oct. 31, 1991. Amended: Filed Oct. 22, 1997, effective April 30, 1998. Amended: Filed June 24, 2003.

**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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 24—Drivers License Bureau Rules**

**PROPOSED AMENDMENT**

**12 CSR 10-24.390 Commercial Driver Instruction Permit.** The director proposes to amend sections (1), (3) and (4).

**PURPOSE:** This amendment clarifies the requirements for a commercial driver to obtain a commercial driver instruction permit.

(1) Before applying for a commercial driver instruction permit, the person shall possess a valid driver[s] license issued in this or any other state.

(3) [The] **Prior to issuance of a commercial driver instruction permit, the person shall present evidence that the appropriate commercial motor vehicle written tests were completed for the class and type of vehicle to be operated [on the commercial driver instruction permit].**

(4) *[The director shall issue a commercial driver instruction permit in the correct class and with appropriate endorsements upon the payment of five dollars (\$5). A permit holder, unless otherwise disqualified, may be granted one (1) six (6)-month extension/renewal of an unexpired instruction permit upon the payment of an additional five dollar (\$5) fee. The person shall be accompanied by the holder of a commercial drivers license valid for the class of vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual, in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle.] A commercial driver instruction permit cannot be used to operate a commercial motor vehicle transporting hazardous materials as defined in 49 CFR 383.5.*

*AUTHORITY: section 302.720, RSMo Supp. [1989] 2002. Emergency rule filed June 7, 1991, effective June 17, 1991, expired Oct. 4, 1991. Original rule filed June 7, 1991, effective Dec. 9, 1991. Emergency rule filed Sept. 24, 1991, effective Oct. 4, 1991, expired Jan. 31, 1992. Amended: Filed Feb. 28, 1992, effective Aug. 6, 1992. Amended: Filed June 24, 2003.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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.*