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SALUS POPULI SUPREMA LEX ESTO

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

JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI REGISTER

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Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
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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 www.sos.mo.gov/adrules/pubsched.

HOW TO CITE RULES AND RSMO

RULES

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

Title		Division	Chapter	Rule
3	CSR	10-	4	.115
Department	*Code of State Regulations*	Agency Division	General area regulated	Specific area regulated

and should be cited in this manner: 3 CSR 10-4.115.

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 paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation, for example, 3 CSR 10-4.115 NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and *Register* on the Internet

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

The *Code* address is www.sos.mo.gov/adrules/csr/csr

The *Register* address is www.sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE
Division 20—Administrative Services
Chapter 1—Organization and Description

PROPOSED RESCISSION

2 CSR 20-1.010 General Organization. This rule complied with section 536.023, RSMo 1986 which required each agency to adopt as a rule a description of its operation and the methods whereby the public may obtain information or make submissions or requests.

PURPOSE: The rule is being rescinded as the Administrative Services Division within the Missouri Department of Agriculture was merged into the Office of the Director.

AUTHORITY: section 536.023, RSMo 1986. Original rule filed April 9, 1976, effective July 15, 1976. Rescinded: Filed May 21, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Agriculture, ATTN: Alan Freeman, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division *[20] 110—[Administrative Services]* *Office of the Director*
Chapter *[3] 4*—Registration of Foreign-Owned Agricultural Land

PROPOSED AMENDMENT

[2 CSR 20-3.010] 2 CSR 110-4.010 **Who Shall Register**. The department is moving the rule, amending the purpose, and sections (1)–(4).

PURPOSE: The proposed amendment updates the division, chapter number, and provides updates to section (1) to reflect current location of corresponding rules and the method to obtain forms.

PURPOSE: This rule designates guidelines and specifications for the registration of foreign ownership of agricultural land with the Missouri Department of Agriculture in compliance with section 442.592, RSMo [1986].

(1) Any foreign person, as defined in section 442.592.1., RSMo *[(1986)]*, who acquires or transfers any interest in agricultural land in Missouri, within thirty (30) days of the date of acquisition or transfer, shall file a report with the director of the Department of Agriculture, P*[.]*O*[.]* Box 630, Jefferson City, MO 65102-0630, *[on forms which shall be supplied, without charge, upon request in writing]* **forms are available on the Missouri Department of Agriculture's website**.

(2) In any instance where more than one (1) foreign person, as defined in section 442.592, RSMo *[(1986)]*, acquires or transfers any interest in any tract or parcel of Missouri agricultural land, each such foreign person shall file the report required.

(3) Reporting is not required when an interest in agricultural land is acquired or transferred by a foreign person or a foreign business for the sole purpose of extracting, refining, processing**,** or transporting oil, gas, coal**,** or lignite.

(4) If any foreign person or entity was obligated, under the provisions of Chapter 442, RSMo *[(1986)]*, to file a report with the director of the Department of Agriculture on any previous date and failed to do so, that foreign person or entity shall file the report required by this chapter within thirty (30) days (June 14, 1982) of the effective date of this rule (May 15, 1982).

AUTHORITY: section 442.592, RSMo [1986] ***2016****. Original rule filed Jan. 12, 1982, effective May 15, 1982. Amended and moved: Filed May 21, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, ATTN: Alan Freeman, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division *[20] 110—[Administrative Services]*
Office of the Director
Chapter *[3] 4***—Registration of Foreign-Owned Agricultural Land**

PROPOSED AMENDMENT

[2 CSR 20-3.020] 2 CSR 110-4.020 **Interest Defined**. The department is moving the rule and amending section (1).

PURPOSE: The proposed amendment updates the division, chapter number, and provides updates to section (1) to reflect current location of corresponding rules.

PURPOSE: This rule defines an interest as it relates to registration with the Missouri Department of Agriculture of foreign persons or entities who or which own agricultural land in Missouri pursuant to Chapter 442, RSMo.

(1) Interest, as used in *[2 CSR 20-3.010(1) and (2)]* **2 CSR 110-4.010(1) and (2)**, shall be defined as all interests acquired, transferred**,** or held in agricultural lands by a foreign person, as that term is defined in section 442.591, RSMo *[(1986)]*, except—

AUTHORITY: section 442.592, RSMo [1986] ***2016****. Original rule filed Jan. 12, 1982, effective May 15, 1982. Amended and moved: Filed May 21, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, ATTN: Alan Freeman, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division *[20] 110—[Administrative Services]*
Office of the Director
Chapter *[3] 4***—Registration of Foreign-Owned Agricultural Land**

PROPOSED AMENDMENT

[2 CSR 20-3.030] 2 CSR 110-4.030 **Nonfarming Purposes Interpreted**. The department is moving the rule, amending the purpose, and amending section (1).

PURPOSE: The proposed amendment updates the division, chapter number, and provides updates to section (1) to reflect current location of corresponding rules.

PURPOSE: This rule interprets the phrase nonfarming purposes as that phrase is found in section 442.591, RSMo [1986].

(1) The phrase nonfarming purposes is interpreted to include, but is not limited to, the conducting and active operation of research or experimentation for the purpose of developing or improving any type of agricultural practice, tool, device**,** or implement, where any agricultural production is incidental to the research or experimentation, and the cost of the research or experimentation exceeds the amount of income derived from the sale of all agricultural production.

AUTHORITY: section 442.592, RSMo [1986] ***2016****. Original rule filed Jan. 12, 1982, effective May 15, 1982. Amended and moved: Filed May 21, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, ATTN: Alan Freeman, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division *[20] 110—[Administrative Services]*
Office of the Director
Chapter *[3] 4***—Registration of Foreign-Owned Agricultural Land**

PROPOSED AMENDMENT

[2 CSR 20-3.040] 2 CSR 110-4.040 **Procedure for Filing**. The department is moving the rule, amending the purpose, and amending sections (1), (4), and (5).

PURPOSE: The purpose of the amendment is to reflect current business processes for registration of foreign-owned agriculture land including the division responsible and how forms are available for registration of stated lands.

PURPOSE: This rule sets out procedures for the registration of foreign ownership of agricultural land with the Missouri Department of Agriculture in compliance with section 442.592, RSMo [1986].

(1) A report upon forms, which *[will be provided upon written request to]* **are available on** the **Missouri** Department of Agriculture**'s website,** shall be filed within thirty (30) days of the date of acquisition or transfer of any interest in agricultural land in Missouri by any foreign person, as that term is defined in section 442.592.1., RSMo *[1986]*.

(4) The report required by this rule shall contain the following information in the appropriate spaces provided on the form:

(I) In the case where any foreign person acquires an interest in agricultural land for the purposes outlined in section 442.591, RSMo *[(1986)]*, a declaration of the intended use of the land, which declaration shall be supplemented by submitting in writing to the director of the Department of Agriculture an amended declaration each time the intended use of all or a portion of the land changes.

(5) Failure to file the report required by this rule subjects the foreign person holding an interest in the Missouri farmland to a substantial civil penalty as provided in section 442.592.6., RSMo *[(1986)]*.

*AUTHORITY: section 442.592, RSMo [1986] **2016**. Original rule filed Jan. 12, 1982, effective May 15, 1982. Amended and moved: Filed May 21, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, ATTN: Alan Freeman, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 20—Administrative Services
Chapter 3—Registration of Foreign-Owned Agricultural Land

PROPOSED RESCISSION

2 CSR 20-3.050 Severability. This rule insured the continued existence of the remaining rules within the chapter should any rule or portion be declared invalid or unconstitutional.

PURPOSE: The rule is being rescinded as the rule is redundant to section 442.571(4), RSMo.

AUTHORITY: section 442.592, RSMo 1986. Original rule filed Jan. 12, 1982, effective May 15, 1982. Rescinded: Filed May 21, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Agriculture, ATTN: Alan Freeman, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 1—Organization and Description

PROPOSED AMENDMENT

2 CSR 60-1.010 General Organization. The department is amending the purpose and sections (1) and (2).

PURPOSE: The purpose of this amendment is to update the description of operation and contact information for the Grain Inspection and Warehousing Division, a unit of the Missouri Department of Agriculture.

PURPOSE: The purpose of this rule is to comply with section 536.023, RSMo [1986] which requires each agency to adopt as a rule a description of its operation and the methods where the public may obtain information or make submissions or requests.

(1) The Division of Grain Inspection and Warehousing is a unit of the Department of Agriculture, state of Missouri.

(A) *[The primary]* **One (1)** responsibility of the division*[, as a designed inspection agency]* **is the Grain Inspection Program, an inspection agency designated** by the United States Department of Agriculture *[is to provide the]***, which provides** services pertaining to grain inspection as set out in The United States Grain Standards Act. As a disinterested third party, this *[division insures]* **program ensures** the buyer and seller of a fair market value of *[his/her]* **their** grain. The duties consist of official sampling, inspection, weighing**,** and chemical analysis of grain and official processed commodities supervision.

(B) A second responsibility of the division is the Grain Regulatory Program that provides regulatory oversight to the grain warehouse and merchandising industry. This oversight ensures a financially stable grain marketing system in Missouri where grain farmers can both store and merchandise their grain production. The duties consist of reviewing financial statements in the licensing process and periodic on-site audits of the licensees' facilities.

(C) A third responsibility of the division is the Commodity Services Program which is responsible for checkoff collections of nine Missouri commodities: beef, corn, soybeans, rice, sheep and wool, wine, aquaculture, peaches, and apples. This program is responsible for conducting seven (7) annual merchandising council elections on behalf of the director: beef, corn, soybean, rice, sheep, aquaculture, and wine.

(2) The address of the main division office is—**PO Box 630,** 1616 Missouri Boulevard, *[P.O. Box 630,]* Jefferson City, MO 65102, (573) 751-*[2558]***4112**.

*AUTHORITY: section 536.023, RSMo [Supp. 1998] **2016**. Original rule filed April 9, 1976, effective July 15, 1976. Amended: Filed Oct. 25, 1999, effective June 30, 2000. Amended: Filed May 18, 2018.*

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 submit a written statement in support of or in opposition to this proposed amendment. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received

*within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 2—Grain Sampling

PROPOSED RESCISSION

2 CSR 60-2.010 Grain Sampling. The director of the Department of Agriculture was authorized to establish all necessary and reasonable regulations and fees for sampling grain whenever the value of grain was established by analysis of a sample drawn by the buyer or his/her representative. This rule established a method that allowed the seller that was dissatisfied with the buyer's grade to obtain an official analysis of his lot of grain from an official grain inspection laboratory of the Department of Agriculture.

PURPOSE: The rule states, in section (8), it was only in effect until January 1, 1979, unless renewed prior to that date by the director. This rule has not been renewed and is outdated and not necessary. 265.505, RSMo provides adequate guidelines to protect sellers' interest.

AUTHORITY: section 265.505, RSMo 1986. Original rule filed Oct. 14, 1976, effective Jan. 14, 1977. Rescinded: Filed May 18, 2018.

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 submit a written statement in support of or in opposition to this proposed rescission. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

PROPOSED RESCISSION

2 CSR 60-4.016 Application of Law. This rule explained the interpretation made by the department regarding the application of Missouri Grain Warehouse Law as provided in section 411.681, RSMo.

PURPOSE: This rule is outdated and unnecessary. 411.015, RSMo provides that all grain warehouses fall under the provision of the Missouri Grain Warehouse Law (411, RSMo). 2 CSR 60-4.015 provides for exemption of train warehouses licensed under the United States Warehouse Act to avoid duplication of licenses and obtrusive burden to the business.

AUTHORITY: section 411.070, RSMo 1986. Original rule filed Jan. 5, 1993, effective June 7, 1993. Rescinded: Filed May 18, 2018.

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 submit a written statement in support of or in opposition to this proposed rescission. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

PROPOSED RESCISSION

2 CSR 60-4.045 Weighing of Grain. This rule clarified who could weigh or supervise the actual weighing of grain at terminal warehouse locations, as well as at other grain warehouse locations, in Missouri as described in sections 411.030 and 411.160, RSMo.

PURPOSE: The rule is outdated and unnecessary. 411.030, RSMo provides the exclusive right for the Department of Agriculture to officially inspect and grade all grains for which standards have been established under the United States Grain Standards Act. Section 411.060, RSMo further clarifies that official inspection and weighing of grain will be performed by persons appointed by the Director of Agriculture.

AUTHORITY: section 411.070, RSMo 1986. Original rule filed Nov. 2, 1992, effective May 5, 1993. Rescinded: Filed May 18, 2018.

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 submit a written statement in support of or in opposition to this proposed rescission. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

PROPOSED RESCISSION

2 CSR 60-4.060 Safety Requirements. This rule established the responsibility for safe working conditions for employees of the Department of Agriculture.

PURPOSE: This rule is unnecessary. 411.283 and 411.750, RSMo require licensees to provide safe working conditions for employees of the Department of Agriculture. This rule is a duplication of 411.283 and 411.759, RSMo.

AUTHORITY: section 411.070, RSMo 1986. This rule was previously filed as 2 CSR 40-4.060. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Rescinded and readopted: Filed Feb. 2, 1990, effective May 31, 1990. Rescinded: Filed May 18, 2018.

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 submit a written statement in support of or in opposition to this proposed rescission. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

PROPOSED RESCISSION

2 CSR 60-4.070 Notification of Destruction or Damage to Grain. This rule established the responsibility of a warehouseman to notify the department if all or part of the grain contained in a licensed warehouse was destroyed or damaged.

PURPOSE: This rule is obsolete and not required by statute. Monitoring of electronic news sources by the Department of Agriculture provides information without required notification by the warehouseman.

AUTHORITY: section 411.070, RSMo Supp. 1998. This rule was previously filed as 2 CSR 40-4.070. Original rule filed May 5, 1972, effective May 15, 1972. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed May 18, 2018.*

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 submit a written statement in support of or in opposition to this proposed rescission. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

PROPOSED AMENDMENT

2 CSR 60-4.080 Storage Space Approval. The department is removing the form titled "Original Application for Missouri Grain Warehouse and/or Missouri Grain Dealer License."

PURPOSE: There is no change to the text of this rule. This rule is being amended to remove the outdated form titled "Schedule of Charges for Storing and Handling Grain."

*AUTHORITY: section 411.070, RSMo [1986] **2016**. This rule was previously filed as 2 CSR 40-4.080. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Rescinded and readopted: Filed Feb. 2, 1990, effective May 31, 1990. Amended: Filed May 18, 2018.*

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 submit a written statement in support of or in opposition to this proposed amendment. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

PROPOSED RESCISSION

2 CSR 60-4.090 Scale Tickets. This rule defined a scale ticket, stated when the tickets must be completed and what information they must contain.

PURPOSE: Amendments to Chapter 411 have incorporated items of this rule, making this rule obsolete and unnecessary. This rule duplicates 411.517 (amended 2014) and 411.518 (amended 1997) RSMo.

AUTHORITY: section 411.070, RSMo 1986. This rule was previously filed as 2 CSR 40-4.090. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Rescinded and readopted: Filed Feb. 2, 1990, effective May 31, 1990. Rescinded: Filed May 18, 2018.

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 submit a written statement in support of or in opposition to this proposed rescission. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

PROPOSED AMENDMENT

2 CSR 60-4.120 Tariffs. The department is removing the form titled "Schedule of Charges for Storing & Handling Grain."

PURPOSE: There is no change to the text of this rule. This rule is being amended to remove the outdated form titled "Schedule of Charges for Storing and Handling Grain."

*AUTHORITY: section 411.070, RSMo [2000] **2016**. Original rule filed Feb. 13, 1980, effective May 11, 1980. Amended: Filed Dec. 29, 2015, effective June 30, 2016. Amended: Filed May 18, 2018.*

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 submit a written statement in support of or in opposition to this proposed amendment. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

PROPOSED AMENDMENT

2 CSR 60-4.130 Acceptance of Appraisal Values on Financial Statements. The department is removing the form titled "Application to Submit Appraisal."

PURPOSE: There is no change to the text of this rule. This rule is being amended to remove the outdated form titled "Application to Submit Appraisal."

*AUTHORITY: sections 411.070 and 411.260, RSMo [1986] **2016**. Original rule filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed May 18, 2018.*

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 submit a written statement in support of or in opposition to this proposed amendment. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

PROPOSED AMENDMENT

2 CSR 60-4.170 Insurance Deductible. The department is removing the form titled "Certificate of Insurance on Grain in Licensed Missouri Public Grain Warehouses."

PURPOSE: There is no change to the text of this rule. This rule is being amended to remove the outdated form titled "Certificate of Insurance on Grain in Licensed Missouri Public Grain Warehouses."

*AUTHORITY: sections 411.070[, RSMo 1986] and 411.290, RSMo [Supp. 1987] **2016**. Original rule filed March 2, 1989, effective May 25, 1989. Amended: Filed May 18, 2018.*

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 submit a written statement in support of or in opposition to this proposed amendment. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

PROPOSED RESCISSION

2 CSR 60-5.040 Daily Position Record. This rule required Class I and Class II grain dealers to keep a daily position record which reflects grain movements in and out of the facility and total grain in the facility.

PURPOSE: This rule is not applicable. A daily position record is not required by the Missouri Grain Dealer Law (276.401-276.582, RSMo).

AUTHORITY: section 276.406, RSMo Supp. 1999. Original rule filed March 15, 1982, effective June 11, 1982. Amended: Filed Oct. 25, 1999, effective June 30, 2000. Rescinded: Filed May 18, 2018.

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 submit a written statement in support of or in opposition to this proposed rescission. Written statements shall be sent to the attention of Joe Walker, Grain Regulatory Services, PO Box 630, Jefferson City, MO 65102. Comments may also be made on the Department of Agriculture's website: mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 110—Office of the Director
Chapter 1—Missouri Qualified Fuel Ethanol Producer Incentive Program

PROPOSED RESCISSION

2 CSR 110-1.010 Description of General Organization; Definitions; Requirements of Eligibility, Licensing, Bonding, and Application for Grants; Procedures for Grant Disbursements; Record Keeping Requirements, and Verification Procedures for the Missouri Qualified Fuel Ethanol Producer Incentive Program. This rule described the operation of the program; defined terms; established requirements for eligibility, licensing, bonding, and application for grants; described procedures for grant disbursements; and established record keeping requirements and verification procedures.

PURPOSE: The rule is being rescinded as section 142.028, RSMo (and its grant of rulemaking authority) expired on December 31, 2015 per section 142.029, RSMo. All owed payments have been made to qualified ethanol producers.

AUTHORITY: section 142.028, RSMo Supp. 2002. Original rule filed June 14, 1995, effective Dec. 30, 1995. Amended: Filed June 13, 2000, effective Dec. 30, 2000. Emergency amendment filed Aug. 14, 2002, effective Aug. 28, 2002, expired Feb. 23, 2003. Amended: Filed Aug. 14, 2002, effective Feb. 28, 2003. Rescinded: Filed May 21, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Agriculture, ATTN: Alan Freeman, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 110—Office of the Director
Chapter 2—Missouri Qualified Biodiesel Producer Incentive Program

PROPOSED RESCISSION

2 CSR 110-2.010 Description of General Organization; Definitions; Requirements of Eligibility, Licensing, Application for Grants; Procedures for Grant Disbursements; Record Keeping Requirements, and Verification Procedures for the Missouri Qualified Biodiesel Producer Incentive Program. This rule described the operation of the program; defined terms; established requirements for eligibility, licensing, and application for grants; described procedures for grant disbursements; and established record keeping requirements and verification procedures.

PURPOSE: The rule is being rescinded as section 142.031, RSMo expired December 31, 2009. The rule is no longer necessary because the eligible producers have already submitted applications and met the requirements necessary to receive payments.

AUTHORITY: section 142.031, RSMo Supp. 2007. Emergency rule filed July 20, 2006, effective Aug. 28, 2006, expired Feb. 23, 2007. Original rule filed July 20, 2006, effective Feb. 28, 2007. Amended: Filed June 4, 2008, effective Dec. 30, 2008. Rescinded: Filed May 21, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Agriculture, ATTN: Alan Freeman, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

PROPOSED RESCISSION

4 CSR 240-3.161 Electric Utility Fuel and Purchased Power Cost Recovery Mechanisms Filing and Submission Requirements. This rule set forth the information that an electric utility was to provide when it sought to establish, continue, modify, or discontinue and/or true-up its rate adjustment mechanism (i.e., fuel and purchased power adjustment clause or interim energy charge). It also set forth the requirements for the submission of Surveillance Monitoring Reports as required for electric utilities that had a rate adjustment mechanism.

PURPOSE: This rule is being rescinded in its entirety because the requirements have been consolidated into 4 CSR 240-20.090.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and 386.266, RSMo Supp. 2005. Original rule filed June 16, 2006, effective Jan. 30, 2007. Rescinded: Filed May 24, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street. PO Box 360, Jefferson City, MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 6, 2018, and should include a reference to Commission Case No. EX-2016-0294. Comments may also be submitted via a filing using the commission's electronic filing and information system at http://www.psc.mo.gov/efis.asp. A public hearing is scheduled for August 13, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities

PROPOSED RULE

4 CSR 240-10.085 Incentives for Acquisition of Nonviable Utilities

PURPOSE: The purpose of this proposed rule is to create a process for a water or sewer utility to propose an acquisition incentive to encourage acquisition of nonviable water or sewer utilities by a water or sewer utility with the resources to rehabilitate the acquired utility within a reasonable time frame.

(1) As used in this rule, the following terms mean:

(A) Nonviable utility—

1. A utility that is in violation of statutory or regulatory standards that affect the safety and adequacy of the service provided, including, but not limited to, the public service commission law, the federal clean water law, the federal Safe Drinking Water Act, as amended, and the regulations adopted under these laws;

2. A utility that has failed to comply, within a reasonable period of time, with any order of the department of natural resources or the commission concerning the safety and adequacy of service;

3. A utility that is not reasonably expected to furnish and maintain safe and adequate service and facilities in the future; or

4. A utility that is insolvent;

(B) Rate of return premiums. Additional rate of return basis points, up to one hundred (100) basis points, awarded at the commission's discretion in recognition of risks involved in acquisition of nonviable utilities and the associated system improvement costs;

(C) Debit acquisition adjustment. Adjustments to an acquiring utility's rate base to reflect a portion or all of the excess acquisition cost over depreciated original cost of the acquired system; and

(D) Plant-in-service study. A report detailing a determination of the value of the original costs of the property of a public utility that requires the acquiring utility to accumulate the records and accounting details in order to support reasonable plant, reserve, and contributions in aid of construction balances.

(2) An application for an acquisition incentive in the form of a rate of return premium and/or debit acquisition adjustment must be filed at the beginning of a case seeking authority under sections 393.190 or 393.170, RSMo. If the commission determines the request for an acquisition incentive is in the public interest, it shall grant the request. The commission may apply a rate of return premium and/or debit acquisition adjustment in the applicant's next rate case proceeding following acquisition of a nonviable utility if the commission determines it will not result in unjust or unreasonable rates.

(3) Filing Requirements—

(A) An application for an acquisition incentive to acquire a nonviable utility shall include the following:

1. A statement as to whether the nonviable utility is related to the operation of another utility (for example, a water or sewer system providing service to the same or similar service area) and whether the related utility operation is part of the transaction;

2. Records related to the original cost of the nonviable utility. The acquiring utility must exercise due diligence and make reasonable attempts to obtain, from the seller, documents related to original cost. In particular, as part of its exercise of due diligence, the acquiring utility shall request, from the seller, for purposes of conducting the plant-in-service study, records relating to the original cost of the assets being acquired and records relating to contributions in aid of construction (CIAC) amounts, including:

A. Accounting records and other relevant documentation, and agreements of donations of contributions, services, or property from states, municipalities, or other government agencies, individuals, and others for construction purposes;

B. Records of un-refunded balances in customer advances for construction (CAC);

C. Records of customer tap-in fees and hook-up fees;

D. Prior original cost studies;

E. Records of local, state, and federal grants used for construction of utility plant;

F. Relevant commission records;

G. A summary of the depreciation schedules from all filed federal tax returns; and

H. Other accounting records supporting plant-in-service; and

3. If the system to be acquired is part of a larger transaction involving multiple systems of which some do not qualify as nonviable, a detailed revenue and rate base plan describing how the acquiring utility will only apply the sought acquisition adjustment to the nonviable system(s) within the larger transaction;

(B) If any of the items required under paragraph (3)(A)2. are unavailable at the time the application is filed, they shall be furnished by the acquiring utility prior to the next rate case; and

(C) The failure of a seller to provide cost-related documents, after reasonable attempts to obtain the data, will not be a basis for the acquiring utility to provide incomplete information about the value of the acquired system's assets in its proposed rate base. Any information not available from the seller shall be estimated by the acquiring utility, along with documentation supporting the reasonableness of the estimates developed.

(4) When submitting an application for an acquisition incentive to acquire a nonviable utility, the acquiring utility has the burden of proof and shall demonstrate the following:

(A) The acquiring utility is not a nonviable utility and will not be materially impaired by the acquisition;

(B) The acquiring utility maintains the managerial, technical, and financial capabilities to safely and adequately operate the system to be acquired;

(C) The system to be acquired is a nonviable utility;

(D) The purchase price and financial terms of the acquisition are fair and reasonable and have been reached through arm's-length negotiations;

(E) Any plant improvements necessary to make the utility viable will be completed within a period of time no longer than three (3) years after the effective date of acquisition;

(F) How managerial or operational deficiencies that can be corrected without capital improvements will be corrected within six (6) months of the acquisition;

(G) How capital improvements and operational changes planned within the next three (3) years will correct deficiencies;

(H) The acquisition is in the public interest; and

(I) The acquisition would be unlikely to occur without the probability of obtaining an acquisition incentive.

(5) If the acquisition incentive is approved by the commission, the utility shall file a rate case no later than twelve (12) months after commission approval of the acquisition or within the period of time as ordered by the commission in section 393.190 or 393.170, RSMo case, unless the utility requests and the commission otherwise approves. Rate impacts of the approved incentive mechanism will go into effect upon order of the commission at the conclusion of that first rate case proceeding. If the acquisition incentive is approved in section 393.190 or 393.170, RSMo case, prior to its next rate case,

the acquiring utility shall—

(A) Book contributions that were properly recorded on the books of the acquired system as CIAC. If evidence supports other CIAC that was not booked by the seller, the acquiring utility shall make an effort, supported with documentation, to determine the actual CIAC and record the contributions for ratemaking purposes, such as lot sale agreements or capitalization vs. expense of plant-in-service on tax returns;

(B) Identify all plant retirements and plant no longer used and useful, and complete the appropriate accounting entries; and

(C) If the records are not available from the acquired system to complete subsection (5)(A) or (5)(B), on a going-forward basis, create and maintain documentation of (5)(A) and (5)(B) from the date of acquisition.

(6) If a debit acquisition adjustment is approved, in its next rate case proceeding, an acquiring utility shall file a plant-in-service study to support the amount of its requested acquisition adjustment addition to its rate base. The acquiring utility shall reconcile and explain any discrepancies between the acquiring utility's plant-in-service study of original cost valuation and the commission's records, to the extent reasonably known and available to the acquiring utility, at the same time the supporting documentation for the study is filed. Any disputes regarding the acquiring utility's plant-in-service study will be resolved in that first subsequent rate case proceeding.

(7) Nothing in the rule precludes an acquiring utility that pays less than the depreciated original cost of the acquired system from seeking to include in rate base an amount up to the depreciated original cost of the acquired system.

(8) Provisions of this rule may be waived by the commission for good cause shown.

AUTHORITY: sections 386.040, 386.250, 393.140, and 393.146, RSMo 2016. Original rule filed May 30, 2018.

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 the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 1, 2018, and should include a reference to Commission Case No. AX-2018-0240. Comments may also be submitted via a filing using the commission's electronic filing and information system at http://www.psc.mo.gov/efis.asp. A public hearing is scheduled for August 7, 2018 at 10:00 a.m., in Room 305 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities

PROPOSED RULE

4 CSR 240-10.095 Environmental Improvement Contingency Fund

PURPOSE: This rule provides parameters and procedures for small water and/or sewer utilities to request a special fund to collect revenue from customers to make improvements necessitated by environmental regulations.

(1) For the purposes of this rule only, a water or sewer utility serving eight thousand (8,000) or fewer customers shall be considered a small utility.

(2) A small utility or commission staff may request establishment of an Environmental Improvement Contingency Fund (EICF) during the course of a rate case, whether filed pursuant to 4 CSR 240-10.075 or section 393.150, RSMo.

(3) Following the request for an EICF, the staff will—

(A) Investigate the small utility's financial resources and its ability to finance capital improvements;

(B) Conduct a managerial audit to determine the quality of the small utility's management; and

(C) Conduct a comprehensive review of the necessary improvements at the small utility.

(4) An EICF may only go into effect if, at the conclusion of the rate case where the small utility or commission staff requests an ECIF, the commission approves the following items:

(A) A list of necessary improvements.

1. The list of necessary improvements may only include those improvements that—

A. Are directly related to environmental rules, regulations, or orders of the Missouri Department of Natural Resources (DNR), the United States Environmental Protection Agency (EPA), or other regulatory authority including, but not limited to, federal, state, or local authorities, city ordinances, and the state attorney general; and

B. Are reasonably anticipated to be completed within five (5) years of the effective date of new rates, although, for good cause shown, the commission may consider projects that require longer to complete; and

2. During the rate case, upon request by the small utility or by direction of the commission, staff will assist the utility in identifying a list of necessary improvements;

(B) An estimated amount of funds necessary for the improvements in the list described in subsection (4)(A).

1. Staff and the small utility will submit the estimated amount of funds necessary for the improvements, which may include costs for preliminary engineering reports related to those improvements.

2. The percentage of the estimated amount collectable through an EICF will be based on an analysis of the needs of the small utility and its ability to secure financing through normal debt or equity sources. The commission may give special consideration to requests that do not require full funding of the estimated amount collectible.

3. If a requested EICF includes funds for a preliminary engineering report, the report must be completed and submitted to the commission prior to the first disbursement from the EICF account; and

(C) A schedule for completion of the list of improvements required by subsection (4)(A). Upon request by the small utility or by direction of the commission, staff will assist the small utility in preparing such a schedule.

(5) The EICF must be collected as a part of the customer charge on customers' bills.

(A) Revenues collected must be recorded by the small utility and placed into a commission-approved account specifically segregated from all other utility accounts, for the explicit purpose of regulatory review and tracking.

(B) Funds held in the EICF account shall only be disbursed to pay for projects approved during the rate case as noted in section (4) above.

(C) Disbursements from the EICF account shall only be made after notice to staff and public counsel.

1. The notice must be sent to staff and public counsel at least thirty (30) days prior to a disbursement.

2. If any party objects to the proposed disbursement, detailed objections must be filed in the official case file in which the EICF was approved no later than ten (10) days after receiving the disbursement notice. The commission may then determine whether or not to approve the requested disbursement of the funds.

3. If no timely objection is raised or staff and public counsel notify the small utility they agree to the disbursement, the small utility may make the disbursement described in its notice no later than the date specified in that notice.

4. The commission will resolve any dispute regarding the proposed disbursements prior to the specified disbursement date.

(6) Every quarter after receiving commission approval of an EICF, the small utility shall submit documentation to staff and public counsel reporting—

(A) Monthly EICF funds received from customers;

(B) Monthly EICF deposits to the escrow account;

(C) Monthly EICF expenditures; and

(D) End-of-month balance of the EICF account.

(7) After an EICF is established, the small utility shall file a subsequent rate request no later than five (5) years after the effective date of the EICF, during which—

(A) Any monies expended from the fund shall be treated as contributions-in-aid-of-construction for purposes of setting rates for the small utility. The EICF will be trued-up and will be reviewed to determine if it should—

1. Remain in effect at the current rate; or

2. Remain in effect at a different rate; or

3. Be terminated.

(8) Staff or the public counsel may, at their discretion, bring before the commission a complaint against the small utility seeking both civil penalties and direction from the commission to promptly stop all collection of an EICF if, upon review of documentation described in section (6) above, staff, public counsel, or another regulatory authority has indication that the small utility has used EICF funds for any purpose other than as approved by the commission. Nothing in this rule shall prohibit civil or criminal action by any state or federal authority against the small utility for misuse of customer funds.

(9) Provisions of this rule may be waived by the commission for good cause shown.

AUTHORITY: sections 386.040, 386.250, 393.140, and 393.270, RSMo 2016. Original rule filed May 30, 2018.

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 the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 1, 2018, and should include a reference to Commission Case No. AX-2018-0241. Comments may also be submitted via a filing using the commission's electronic filing and information system at http://www.psc.mo.gov/efis.asp. A public hearing is scheduled for August 7, 2018 at 2:00 p.m., in Room 305 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities

PROPOSED AMENDMENT

4 CSR 240-20.090 *[Electric Utility]* **Fuel and Purchased Power** *[Cost Recovery]* ***Rate Adjustment*** **Mechanisms**. The commission is amending and revising all sections of this rule to consolidate the filing requirements for applications for fuel adjustment clauses to be established, continued, or modified.

PURPOSE: This proposed amendment modifies the definitions, structure, operation, and procedures relevant to the filing and processing of applications to allow fuel and purchased power costs and fuel-related revenues in an interim energy charge or a fuel adjustment clause. The interim energy charge is established in a general rate proceeding, while the fuel adjustment clause allows periodic rate adjustments outside general rate proceedings.

(1) *[Definitions. As used in this rule, the following terms mean as follows:]* **The following subsections define various terms as used in this rule:**

(A) Accumulation period means the time period set by the commission in the general rate proceeding over which historical fuel and purchased power costs and fuel-related revenues are accumulated for purposes of determining the actual net energy costs (ANEC). An accumulation period may be a time period between three (3) and twelve (12) months with the timing and number of accumulation periods to be determined in the general rate proceeding establishing, continuing, or modifying the FAC;

(B) Actual net energy costs (ANEC) means prudently incurred fuel and purchased power costs minus fuel-related revenues of a rate adjustment mechanism (RAM) during the accumulation period;

(C) Base energy costs means the fuel and purchased power costs net of fuel-related revenues determined by the commission to be included in a RAM that are also included in the revenue requirement used to set base rates in a general rate case;

(D) Base factor (BF) means the base energy costs per kilowatt hour (kWh) measured at the regional transmission organization's applicable price node for the electric utility's load or, if the electric utility is not a participant in a regional transmission organization, at the generator. The base factor(s) shall be established in a general rate proceeding and may vary by season of the year;

(E) Base rates means the tariffed rates that do not change between general rate proceedings;

*[(A)]***(F)** Electric utility **or utility** means electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapters 386 and 393, RSMo;

(G) EFIS means the electronic filing and information system of the commission;

(H) FAC charge means the positive or negative dollar amount on each utility customer's bill, which in the aggregate is to recover from or return to customers the fuel and purchased power adjustment (FPA) amount;

(I) Fuel adjustment clause (FAC) means a mechanism established in a general rate proceeding which is designed to recover from or return to customers the fuel and purchased power adjustment (FPA) amounts through periodic changes to the fuel adjustment rates made outside a general rate proceeding;

(J) Fuel adjustment rate (FAR) means the rate used to determine the FAC charge on each utility customer's bill during a recovery period of a FAC. The FAR shall be designed to recover from or return to customers the recovery period FPA. The FAR may be positive or negative;

(K) Fuel and purchased power adjustment (FPA) means the dollar amount intended to be recovered from or returned to customers during a given recovery period of a FAC. The FPA may be positive or negative. It includes:

1. The difference between the ANEC and NBEC during the corresponding accumulation period taking into account any incentive ordered by the commission;

2. True-up amount(s) ordered by the commission prior to or on the same day as commission approval of the FAR adjustment;

3. Interest on the FPA, true-up amount, and any prudence adjustment;

4. Prudence adjustment(s) ordered by the commission since the last FAR adjustment; and

5. Any other adjustment ordered by the commission;

*[(B)]***(L)** Fuel and purchased power costs means prudently incurred and used fuel and purchased power costs, including transportation costs. Prudently incurred costs do not include any increased costs resulting from negligent or wrongful acts or omissions by the utility. If not inconsistent with a commission approved incentive plan, fuel and purchased power costs also include prudently incurred actual costs of net cash payments or receipts associated with hedging instruments tied to specific volumes of fuel and associated transportation costs.

1. If off-system sales revenues are not reflected in the rate adjustment mechanism (RAM), fuel and purchased power costs **shall** only reflect the prudently incurred fuel and purchased power costs necessary to serve the electric utility's Missouri retail customers.

[2. If off-system sales revenues are reflected in the RAM, fuel and purchased power costs reflect both:

A. The prudently incurred fuel and purchased power costs necessary to serve the electric utility's Missouri retail customers; and

B. The prudently incurred fuel and purchased power costs associated with the electric utility's off-system sales;

(C) Fuel adjustment clause (FAC) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect increases and decreases in an electric utility's prudently incurred fuel and purchased power costs. The FAC may or may not include offsystem sales revenues and associated costs. The commission shall determine whether or not to reflect off-system sales revenues and associated costs in a FAC in the general rate proceeding that establishes, continues or modifies the FAC;]

2. Fuel and purchased power costs do not include environmental costs as defined in 4 CSR 240-20.091(1) or renewable energy standard compliance costs as defined in 4 CSR 240-20.100(1);

(M) Fuel-related revenues means those revenues related to the generation, sale, or purchase of energy. Fuel-related revenues may include, but are not limited to, off-system sales, emission allowance sales, and renewable energy credits or certificates whenever such renewable energy credits or certificates are not included in a Renewable Energy Standard Rate Adjustment Mechanism (RESRAM) in compliance with 4 CSR 240-20.100;

*[(D)]***(N)** General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges of the electric utility are considered by the commission;

[(E) Initial RAM rules means the rules first adopted by the commission to implement Senate Bill 179 of the Laws of Missouri 2005;]

(O) Interest means monthly interest at the utility's short term borrowing rate to accurately and appropriately remedy any over- or under-billing during a recovery period, true-up, or any commission ordered refund of imprudently incurred costs;

*[(F)]***(P)** Interim energy charge (IEC) means *[a refundable fixed charge,]* **a mechanism that includes a refundable fixed amount billed through an interim energy rate (IER)** established in a general rate proceeding*[,]* that permits an electric utility to recover some or all of its fuel and purchased power costs separate from **the fuel and purchased power costs included in** its base rates. *[An IEC may or may not include offsystem sales and revenues and associated costs. The commission shall determine whether or not to reflect off-system sales revenues and associated costs in an IEC in the general rate proceeding that establishes, continues or modifies the IEC;]* **Base energy cost in the base rates is the floor of the IEC. The base energy cost plus the fuel and purchased power costs billed through the IER is the ceiling of the IEC. An IEC may or may not include fuel-related revenues and costs related to those revenues;**

(Q) Megawatt hour (mWh) is one (1) million watt hours or one thousand (1,000) kilowatt hours (kWh);

(R) MCF is one thousand (1,000) cubic feet of natural gas;

(S) MMBtu is equal to one (1) million Btus;

(T) Net base energy costs (NBEC) means the product of the utility's base factor (BF) times the kWh measured at the regional transmission organization's price node for the electric utility's load or, if the electric utility is not a participant in a regional transmission organization at the generator, for the accumulation period;

(U) Other parties means any party to the applicant's most recent general rate proceeding in which the RAM at issue was established, continued, or modified;

*[(G)]***(V)** Rate adjustment mechanism (RAM) refers to either a **commission-approved** fuel adjustment clause **(FAC)** or **a commission-approved** interim energy charge **(IEC)**;

(W) Rebase base energy costs means the resetting of the base energy cost in each general rate proceeding in which the FAC is continued or modified;

(X) Recovery period means the period over which the FAR is applied to retail customer usage on a per kilowatt-hour (kWh) basis in an effort to recover the FPA. A recovery period is determined in a general rate case and shall not be longer than twelve (12) billing months;

*[(H)]***(Y)** Staff means the staff of the Public Service Commission; and

[(I) True-up year means the twelve (12)-month period beginning on the first day of the first calendar month following the effective date of the commission order approving a RAM unless the effective date is on the first day of the calendar month. If the effective date of the commission order approving a rate mechanism is on the first day of a calendar month, then the true-up year begins on the effective date of the commission order. The first annual true-up period shall end on the last day of the twelfth calendar month following

the effective date of the commission order establishing the RAM. Subsequent true-up years shall be the succeeding twelve (12)-month periods. If a general rate proceeding is concluded prior to the conclusion of a true-up year, the true-up year may be less than twelve (12) months.]

(Z) True-up amount means—

1. For a FAC, the true-up amount shall be the difference between the FPA and the utility's aggregate FAC charges billed for a recovery period. If the aggregate FAC charges billed for recovery period are more than the FPA, the true-up amount will be negative. If the aggregate FAC charges billed for a recovery period are less than the FPA, the true-up amount will be positive.

A. The electric utility may request in its general rate case to use the final Regional Transmission Organization (RTO) determinants to update the FPA for its true-up if the electric utility belongs to an RTO where the RTO may, after the beginning of the recovery period, finalize the determinants used to calculate the FPA for the recovery period.

2. For an IEC, the true-up amount shall be determined as follows for each consecutive twelve- (12-) month period—

A. If the actual fuel and purchased power cost is greater than the IEC ceiling, the true-up amount shall be zero;

B. If the actual fuel and purchased power cost is less than the IEC ceiling and greater than the IEC floor, the true-up amount shall be the difference between the actual fuel and purchased power cost and the combined IEC billed plus the base energy cost. The customers will be credited/refunded this amount; or

C. If the actual fuel and purchased power cost is less than the IEC floor, the true-up amount shall be the aggregate IEC billed. The customers will be credited/refunded this amount.

(2) *[Applications to Establish, Continue or Modify a RAM. Pursuant to the provisions of this rule, 4 CSR 240-2.060 and section 386.266, RSMo, only]* **Establishment, Continuance, or Modification of a RAM.** *[a]*An electric utility **may only file a request with the commission to establish, continue, or modify a RAM** in a general rate proceeding *[may file an application with the commission to establish, continue or modify a RAM by filing tariff schedules]*. Any party in a general rate proceeding *[in which a RAM is effective or proposed]* may seek to continue, modify**,** or oppose the RAM. The commission shall approve, modify**,** or reject such *[applications to establish a RAM]* **request** only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility.

[(A) The commission may approve the establishment, continuation or modification of a RAM and associated rate schedules provided that it finds that the RAM it approves is reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity and so long as the rate schedules that implement the RAM conform to the RAM approved by the commission.

(B) The commission may take into account any change in business risk to the utility resulting from establishment, continuation or modification of the RAM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.

(C) In determining which cost components to include in a RAM, the commission will consider, but is not limited to only considering, the magnitude of the costs, the ability of the utility to manage the costs, the volatility of the cost component and the incentive provided to the utility as a result of the inclusion or exclusion of the cost component. The commission may, in its discretion, determine what portion of prudently incurred fuel and purchased power costs may be recovered in a RAM and what portion shall be recovered in base rates.

(D) The electric utility shall include in its initial notice to customers regarding the general rate case, a commission approved description of how the costs passed through the proposed RAM requested shall be applied to monthly bills.]

(A) The electric utility shall file the following supporting information, in electronic format where available (with formulas intact), as part of, or in addition to, its direct testimony:

1. An example of the notice to be provided to customers to be approved by the commission. The notice shall include a description of how its proposed RAM shall be applied to monthly bills, the electric utility's estimate of the amount of the proposed change in rates arising from changes in the base energy costs, and the estimated impact on a typical residential customer's bill resulting from the proposed change to the base energy costs;

2. An example customer bill showing how the proposed RAM shall be separately identified on affected customers' bills in accordance with section (12);

3. Proposed RAM tariff sheets;

4. A detailed description of the design and intended operation of the proposed RAM;

5. A detailed explanation of how the proposed RAM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity;

6. A detailed explanation of how the proposed FAC shall be trued-up for over-and under-billing, or how and when the refundable portion of the proposed IEC shall be trued-up;

7. A detailed description of how the electric utility's monthly short-term interest rate will be defined and how it will be applied, during the accumulation period and the recovery period, to true-up amounts and prudence disallowances;

8. A detailed description of how the proposed RAM is compatible with the requirement for prudence reviews;

9. In order for the commission to make the determination in subsection (C), a detailed explanation of each fuel and purchased power cost type and fuel-related revenue type that is to be recovered under the proposed RAM including, but not limited to—

A. Why the cost or revenue type should be included in the RAM;

B. The cost incurred or revenue received by the electric utility's proposed test year;

C. The annual expected magnitude of the cost or revenue for the next four (4) years;

D. A measure of volatility and the reason for the volatility of the cost or revenue type;

E. The uncertainty surrounding the cost or revenue type and the reason for the uncertainty;

F. An explanation of how the electric utility manages the cost or revenue type; and

G. The specific account or any other designation ordered by the commission where the cost or revenue type will be recorded on the electric utility's books and records;

10. A detailed explanation of the fuel-related revenues that are to be considered in determining the amount to be recovered under the proposed RAM with identification of the specific account and any other designation ordered by the commission where that revenue will be recorded on the electric utility's books and records;

11. A detailed explanation of any incentive feature in the proposed RAM with the expected benefit and cost each feature is intended to produce for both the electric utility and its Missouri retail customers;

12. A detailed explanation of any rate volatility mitigation feature in the proposed RAM;

13. A detailed explanation of any feature of the proposed RAM and any existing electric utility policy, procedure, or practice that ensures only prudent fuel and purchased power costs and fuel-related revenue shall be recovered through the proposed

RAM, including, but not limited to, competitive bidding practices;

14. If the proposed RAM includes incorporating fuel and purchased power costs and fuel-related revenue in the electric utility's base rates, a detailed explanation of the methodology used to allocate fuel and purchased power costs and fuel-related revenue to specific customer classes in the base rates and in any subsequent rate adjustments during the term of the proposed RAM;

15. A detailed explanation of the rate design of the RAM for each customer class, including at a minimum the electric utility's justification for the methodology chosen for determining the rate design and how that methodology is consistent with the methodology used to allocate fuel costs, purchased power costs, and fuel-related revenue in base rates;

16. A detailed explanation of any change to the electric utility's business risk resulting from implementation of the proposed RAM, in addition to any other changes in business risk the electric utility may experience;

17. A detailed explanation of any risk to each of the electric utility's Missouri retail customer classes resulting from implementation of the proposed RAM, including the electric utility's estimated quantification of any risk and how the electric utility will manage that risk;

18. A copy of the results of heat rate tests and/or efficiency tests that were conducted on each of the electric utility's steam generators, including nuclear steam generators, heat recovery steam generators, steam turbines, and combustion turbines for the electric utility's general rate proceeding proposing to establish, continue, or modify the RAM. The electric utility may, in lieu of filing the foregoing results with the commission, provide the results to staff, Office of the Public Counsel (OPC), and other parties as part of the workpapers it provides in connection with its direct case filing. If the electric utility submits the heat rate tests and/or efficiency tests in workpapers, it will provide a statement in its testimony as to where the results can be found in workpapers;

19. Information that shows that the electric utility has in place a long-term resource planning process;

20. If the electric utility proposes to include emissions allowances costs or sales revenue in the proposed FAC and not in an environmental cost recovery mechanism, a detailed explanation of its emissions management policy, and its forecasted environmental investments, emissions allowances purchases, and emissions allowances sales;

21. For each power generating unit the electric utility owns or controls, in whole or in part, the electric utility shall file graphs, accompanied by the data supporting the graphs, for each month over the immediately preceding five (5) years, showing the monthly equivalent availability factor, the monthly equivalent forced outage rate, and the length and timing of each planned outage of that unit; and

22. Authorization for the staff to release to all parties to the general rate proceeding in which the establishment of a RAM is requested, the previous five (5) years of historical surveillance monitoring reports the electric utility submitted in EFIS.

(B) An electric utility filing for modification or continuance of a RAM in which the information required in subsection (2)(A) has been previously filed with the commission as part of a general rate proceeding and has not changed, may certify that the information has not changed, in lieu of providing copies of information, and provide to all parties the general rate case number and location in EFIS, including the EFIS item and page number where the information can be found. An electric utility filing to continue or modify a RAM must also provide to all parties any additional information the commission ordered the electric utility to provide when seeking to continue or modify its RAM.

(C) The commission may approve the establishment, continuation, or modification of a RAM and associated tariff sheets provided that it finds that the RAM is reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity and so long as the tariff sheets that implement the RAM conform to the RAM approved by the commission. The commission may consider, but is not limited to, considering—

1. Fuel and purchased power costs, fuel-related revenues that would flow through the RAM, or other factors it deems appropriate;

2. Any change in business risk of the utility resulting from establishment, continuation, or modification of the RAM in setting the electric utility's allowed return on equity in any general rate proceeding, in addition to any other changes in business risk experienced by the electric utility; and

3. In determining which fuel and purchased power cost types and fuel-related revenue types to include in a RAM, the commission may consider the magnitude of each cost or revenue type, the ability of the utility to manage each cost or revenue type, the volatility of each cost or revenue type and the incentive provided to the utility as a result of the inclusion or exclusion of each cost or revenue type. The commission may, in its discretion, determine what portion of prudently incurred fuel and purchased power costs and fuel-related revenues may be recovered in a RAM and what portion shall be recovered in base rates.

*[(E)]***(D)** Any party to the general rate proceeding may oppose *[the establishment, continuation or modification of a]* **any** RAM and/or may propose alternative RAMs for the commission's consideration *[including but not limited to modifications to the electric utility's proposed RAM]*.

*[(F)]***(E)** The RAM**,** and *[periodic adjustments thereto]* **any adjustments to the FARs if a FAC is approved,** shall be based on historical fuel and purchased power costs **and fuel-related revenues**.

[(G) The electric utility shall meet the filing requirements in 4 CSR 240-3.161(2) in conjunction with an application to establish a RAM and 4 CSR 240-3.161(3) in conjunction with an application to continue or modify a RAM.]

(F) For an electric utility with a FAC, the utility shall include in its proposed tariff sheets provisions which shall accurately and appropriately remedy any true-up amount as part of the electric utility's determination of its FPA for a change to its FARs. The proposed tariff sheets shall include, at a minimum:

1. When the electric utility will file for a true-up;

2. How the true-up amount will be determined including, but not limited to, any recalculation of the FPA; and

3. How and when the true-up amount will be recovered.

For an electric utility with an IEC mechanism, a true-up must be filed within sixteen (16) months of the operation of law date of the IEC and be filed annually thereafter.

*[(H)]***(G)** Any party to the general rate proceeding may propose a cap on the *[change in the FAC, reasonably designed]* **periodic changes to the fuel adjustment rate (FAR),** to mitigate volatility in rates, provided it proposes a method for the utility to recover all of the costs it would be entitled to recover in the FAC, together with interest thereon.

(3) *[Application for Discontinuation of a RAM. The commission shall allow or require the rate schedules that define and implement a RAM to be discontinued and withdrawn only after providing the]* **Discontinuance of a RAM. The tariff sheets that define and implement a RAM shall only be discontinued and withdrawn after the** opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that affect **ratepayers,** the cost or overall rates**,** and charges of the petitioning electric utility.

(A) When an electric utility files a general rate proceeding in which it requests that its RAM be discontinued, the electric utility shall file with the commission, and serve on the parties, the following supporting information, in electronic format where

available (with formulas intact), as part of, or in addition to, its direct testimony:

1. An example of the notice to be provided to customers regarding the general rate case to be approved by the commission, and a description of why it believes the RAM should be discontinued;

2. A detailed explanation of how the electric utility proposes to discontinue its RAM.

A. If requesting to discontinue its FAC, the electric utility shall include the following in its explanation:

(I) The ending date of the last FAC accumulation period;

(II) The beginning and ending dates of the recovery period for that accumulation period; and

(III) The procedure for the true-up associated with the recovery period for that accumulation period.

B. If requesting to discontinue its IEC, the electric utility shall include a detailed explanation of how any over-billing will be returned to the electric utility's retail customers;

3. A detailed explanation of why the RAM is no longer necessary to provide the electric utility a sufficient opportunity to earn a fair return on equity;

4. A detailed explanation of any impact on setting the electric utility's allowed return on equity in any rate proceeding as a result of the change to the electric utility's business risk resulting from discontinuation of its RAM, in addition to any other changes in business risk experienced by the electric utility;

5. Any additional information that the commission ordered the electric utility to provide when seeking to discontinue its RAM.

*[(A)]***(B)** Any party to the general rate proceeding may oppose the discontinuation of a RAM on the grounds that the utility is opportunistically discontinuing the RAM due to declining fuel or purchased power costs and/or increasing *[off-system sales]* **fuel-related** revenues. If the commission finds that the utility is opportunistically seeking to discontinue the RAM for any of these reasons, the commission shall not allow the RAM to be discontinued, and shall order its continuation or modification. **In addition to other remedies provided by law, the commission may reject the utility's request for discontinuance of a RAM if it finds that the utility has not complied with this rule in its request to discontinue its RAM.** To continue or modify the RAM under such circumstances, the commission must find that it provides the electric utility with a sufficient opportunity to earn a fair rate of return on equity and the *[rate schedules]* **tariff sheets** filed to implement the RAM must conform to the RAM approved by the commission. Any RAM and periodic adjustments *[thereto]* **to the FAR** shall be based on historical fuel and purchased power costs.

*[(B)]***(C)** The commission may take into account any change in business risk *[to the corporation]* **of the electric utility** resulting from discontinuance of the RAM in setting the electric utility's allowed return **on equity** in any **general** rate proceeding*[,]* in addition to any other changes in **the electric utility's** business risk *[experienced by the electric utility]*.

[(C) The electric utility shall include in its initial notice to customers, regarding the general rate case, a commission approved description of why it believes the RAM should be discontinued.

(D) Subsections (2)(A) through (C), (F) and (G) shall apply to any proposal for continuation or modification.

(E) The electric utility shall meet the filing requirements in 4 CSR 240-3.161(4).]

[(4) Periodic Adjustments of FACs. If an electric utility files proposed rate schedules to adjust its FAC rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.161 and additional information obtained through discovery, if any, to determine if the proposed adjustment to the FAC is in accordance with the provisions of this rule, section 386.266, RSMo and the FAC mechanism established in the most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules to adjust its FAC rates. If the FAC rate adjustment is in accordance with the provisions of this rule, section 386.266, RSMo, and the FAC mechanism established in the most recent general rate proceeding, the commission shall either issue an interim rate adjustment order approving the tariff schedules and the FAC rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect sixty (60) days after the tariff schedules were filed. If the FAC rate adjustment is not in accordance with the provisions of this rule, section 386.266, RSMo, or the FAC mechanism established in the most recent rate proceeding, the commission shall reject the proposed rate schedules within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate interim rate schedule(s).

(A) An electric utility with a FAC shall file one (1) mandatory adjustment to its FAC in each true-up year coinciding with the true-up of its FAC. It may also file up to three (3) additional adjustments to its FAC within a true-up year with the timing and number of such additional filings to be determined in the general rate proceeding establishing the FAC and in general rate proceedings thereafter.

(B) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (10) and its monthly reporting requirements as required by 4 CSR 240-3.161(5) in order for the commission to process the electric utility's requested FAC adjustment increasing rates.

(C) If the staff, Office of the Public Counsel (OPC) or other party which receives, pursuant to a protective order, the information that the electric utility is required to submit in 4 CSR 240-3.161 and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.161 and the commission order establishing the RAM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff schedules to adjust the FAC rates and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was in compliance with the requirements of 4 CSR 240-3.161, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase FAC rates shall be suspended. If the commission then issues an order requiring the information be provided, the time necessary for the information to be provided shall further extend the processing timeline for the adjustment to increase FAC rates. For good cause shown the commission may further suspend this timeline. Any delay in providing sufficient information in compliance with 4 CSR 240-3.161 in a request to decrease FAC rates shall not alter the processing timeline.]

(4) Requirements for Electric Utilities that have a RAM. If the commission grants, modifies, or continues an electric utility's RAM, the electric utility shall—

(A) Upon thirty (30) days prior written notice to the electric utility, provide for review by staff at its corporate headquarters, or some other place mutually agreed upon by the electric utility and staff, a copy of each and every nuclear fuel, coal, natural gas, and fuel transportation contract (to the extent related to generation of electricity), the utility's hedging policies and the utility's internal policy for participating in a Regional Transmission Organization (RTO) ancillary services market (if applicable), including every amendment and modification to each such contract or policy that was in effect during a RAM for the electric utility; and

(B) Notify the staff through EFIS of every new nuclear fuel, coal, natural gas, and fuel transportation contract and every new amendment and every new modification to currently existing contracts or to the policies referenced in subsection (4)(A) above within thirty (30) days of the effective date of the contract, amendment, or modification. The notification shall include where the contracts, amendments, modifications, and related competitive bidding materials may be reviewed.

(5) Periodic Reports. So long as it has a RAM in effect, each electric utility shall submit a report that covers each period used to accumulate costs and revenues for inclusion in the RAM through EFIS and to staff, OPC, and other parties. Each periodic report shall be verified by the affidavit of an electric utility representative(s) who has knowledge of the subject matter and who attests to both the veracity of the information and his/her knowledge of it. The information identified in this section shall be provided in electronic format where available (with formulas intact), and shall be submitted no later than the utility's filing for an adjustment to its RAM based on that accumulation period. Each periodic report shall contain the following information by month:

(A) The billing month actual energy usage in kWhs by rate class and voltage level;

(B) Net base energy costs billed in base rates by rate class and voltage level along with workpapers (with formulas intact) detailing the calculation;

(C) FARs by voltage level along with workpapers (with formulas intact) detailing the calculation;

(D) The fuel and purchased power costs and fuel related revenues for each month, year-to-date, and prior calendar year by account and any other designation ordered. If accounts, subaccounts, and other designations are not comparable to costs and revenues listed in the electric utility's FAC tariff sheets, the electric utility shall also include the costs as listed in the tariff sheets;

(E) Off-System Sales.

1. If sold within an RTO market—

A. Revenue net of the cost of any energy purchases in the RTO market;

B. MWh's net of the MWh's for any energy purchases in the RTO market.

2. If sold outside of an RTO market (physical bilateral transactions)—

A. Total MWh's;

B. Total revenues;

(F) Capacity Sales.

1. If sold within an RTO market—

A. MW capacity sold net of MW capacity purchased;

B. Revenue received net of the cost of capacity purchased.

2. If sold outside on an RTO market (third party bilateral transactions)—

A. MW capacity sold;

B. Total revenue;

(G) Energy Purchases.

1. If purchased within an RTO market—

A. Cost net of the revenue of any energy sales from the RTO market;

B. MWh's net of the MWh's for any energy sales from the RTO market.

2. If purchased outside of an RTO market (physical bilateral transactions)—

A. Total MWh's.

B. Total revenues;

(H) Capacity Purchases.

1. If purchased within an RTO market—

A. MW capacity purchased net of MW capacity sold;

B. Cost net of the revenue received for capacity sold.

2. If purchased outside on an RTO market (third party bilateral transactions)—

A. MW capacity purchased;

B. Cost;

(I) Reason for the purchase of capacity in the RTO markets;

(J) The following information for the period, by generation facility, by fuel type, and by total for the electric utility:

1. Quantity of fuel burned, with the designation of the units in which the quantity is reported (e.g., tons, MCF, MMBtu);

2. Million British Thermal Units (MMBtu) of fuel burned;

3. Average cost of fuel per MMBtu, by fuel type;

4. Aggregate megawatt hours (mWhs) of net energy generated by the generating facility at each generation station, where net energy generated is the gross generation net of the station use;

5. Average cost of fuel per mWh; and

6. The cost of fuel purchased by fuel type and, for coal, a breakdown between the cost of the coal commodity and the cost of coal transportation;

(K) A detailed description of the accounts or other designations ordered by the commission, where each fuel and purchased power cost or fuel-related revenue is recorded. The report shall identify any changes since the last periodic report to accounts or other designations of costs and revenue types ordered to be included by the commission in the last general rate proceeding;

(L) Each revision to the electric utility's internal policy for participating in—

1. RTO ancillary services market, if the RTO in which the electric utility participates has such a market;

2. RTO energy markets by RTO;

3. RTO capacity markets by RTO;

4. Financial swaps or other financial-only transactions (if such financial transactions are included in the electric utility's RAM);

(M) Any additional information that the commission has ordered the electric utility to provide in its periodic reports.

(6) Surveillance Monitoring Reports. So long as it has a RAM in effect, each electric utility shall submit in EFIS and submit to staff, OPC, and other parties, a surveillance monitoring report, within fifteen (15) days after each of the electric utility's United States Securities and Exchange Commission (SEC) 10-Q and 10-K filings are due. The surveillance monitoring report shall be verified by the affidavit of an electric utility representative(s) who has knowledge of the subject matter and who attests to both the veracity of the information and his/her knowledge of it. These surveillance monitoring reports are confidential.

(A) There are six (6) parts to the electric utility surveillance monitoring report. Each part, except Part I—Rate Base Quantifications, shall contain information for the last twelve-(12-) month period and the last quarter based on total company electric operations data and on Missouri jurisdictional operations data. Part I—Rate Base Quantifications, shall contain only information as of the ending date of the period being reported. The content of the surveillance monitoring report follows:

1. Part I—Rate Base Quantifications. The quantification of rate base items in Part I shall be consistent with the methods and procedures used in the electric utility's most recent rate proceeding before the commission, unless otherwise specified. Part I

shall consist of specific quantifications of the following rate base items:

A. Plant-in-service;

B. Reserve for depreciation;

C. Materials and supplies;

D. Cash working capital;

E. Fuel inventory;

F Prepayments;

G. Other regulatory assets;

H. Customer advances;

I. Customer deposits;

J. Accumulated deferred income taxes;

K. All other items included in the electric utility's rate base from its most recent general rate proceeding before the commission;

L. Net Operating Income from Part III; and

M. Calculation of the overall return on rate base;

2. Part II—Capitalization Quantifications. Part II shall consist of specific quantifications of the following capitalization-related items:

A. Common stock equity (net);

B. Preferred stock (par or stated value outstanding);

C. Long-term debt (including current maturities);

D. Short-term debt; and

E. Weighted cost of capital including component costs;

3. Part III—Income Statement. Part III shall consist of an income statement containing specific quantifications of—

A. Operating revenues, including revenues from sales to industrial, commercial, and residential customers, sales for resale and all other components of total operating revenues;

B. Operating and maintenance expenses in fuel expense, production expense, purchased power energy, and purchased power capacity;

C. Transmission expense;

D. Distribution expense;

E. Customer accounts expense;

F. Customer service and information expense;

G. Sales expense;

H. Administrative and general expense;

I. Depreciation, amortization, and decommissioning expense;

J. Taxes other than income taxes;

K. Income taxes; and

L. Quantification of heating degree and cooling degree days, both actual and normal;

4. Part IV—Jurisdictional Allocation Factors. Part IV shall consist of a list of the jurisdictional allocation factors used for determining the electric utility's rate base, capitalization quantification, and income statement;

5. Part V—Financial Data Notes. Part V shall consist of notes to the reported financial data including, but not limited to:

A. Out-of-period adjustments;

B. Specific quantification of material variances between actual and budget financial performance;

C. Specific identification and quantification of material variances between current twelve- (12-) month period and prior twelve- (12-) month period revenue;

D. The expense levels of each item the commission has ordered be tracked in the RAM;

E. Budgeted capital projects; and

F. Events that materially affect debt or equity surveillance components;

6. Part VI—Missouri Energy Efficiency and Investment Act (MEEIA). An electric utility with approved MEEIA demand-side management programs and/or an approved demand-side programs investment mechanism shall include all quarterly filing requirements of 4 CSR 240-20.093(9);

(B) Each surveillance monitoring report shall include any additional information the commission has ordered be provided.

(7) Budget Report. Annually the electric utility shall submit in EFIS and provide to staff, OPC, and other parties, its approved budget for the upcoming budget year, in electronic format (with formulas intact) and in a layout similar to its surveillance monitoring report. The budget submission shall provide a quarterly and annual quantification of the electric utility's income statement. The budget report shall be submitted within thirty (30) days of when the electric utility's budget is approved by the electric utility's management or within sixty (60) days of the beginning of the electric utility's fiscal year, whichever is earliest. The budget submission shall be designated "highly confidential" and treated accordingly.

(8) Periodic Changes to Fuel Adjustment Rates. An electric utility that has a FAC shall file proposed tariff sheet(s) to adjust its FARs following each accumulation period. The FARs shall be designed to bill the electric utility's customers, in the aggregate, the FPA if the FPA is positive, or return the FPA to the utility's customers if the FPA is negative. When an electric utility files with the commission tariff schedule(s) to change its fuel adjustment rates and serves it upon parties, the filed tariff schedule(s) shall be accompanied by—

(A) Prefiled testimony that shall include:

1. The proposed FARs;

2. The change in the FARs;

3. The impact of the proposed FARs on the monthly bill of the electric utility's typical residential customer, together with the definition of typical residential customer used to determine that impact;

(B) The following information in electronic format where available (with formulas intact):

1. For the period of historical costs which are being used to propose the fuel adjustment rates—

A. The billing month and calendar month actual energy sales in kilowatt-hours, by rate class and voltage level;

B. The actual fuel costs of the types of fuel costs designated in the FAC, listed by generating station and fuel type;

C. The actual purchased power costs of the types of purchased power costs designated in the electric utility's FAC, differentiated by—

(I) Purchased power;

(II) Demand costs and energy costs, separately stated; and

(III) The actual fuel transportation costs of the types of fuel costs designated in the FAC;

D. The megawatt-hours and costs of purchased power of the type included in the electric utility's FAC;

E. Revenues, gross and net of off-system sales;

F. Fuel-related revenues other than off-system sales revenues separated by type of fuel-related revenue;

G. Net base energy costs collected in permanent rates—

(I) Any additional requirements the commission ordered;

(II) Calculation of each of the proposed fuel adjustment rates; and

(III) Calculations of the voltage differentiation in the proposed FAC rates, if any, to account for differences in line losses by service voltage level; and

H. Extraordinary costs not to be passed through, if any, due to such costs being an insured loss, or subject to reduction due to litigation or for any other reason;

2. The electric utility's monthly short-term debt interest rate, along with—

A. An explanation of how that rate was determined;

B. The calculation of the short-term debt interest rate;

C. Identification of any changes in the basis(es) used for

determining the short-term debt interest rate since the last FAC rate adjustment; and

D. If there is a change in the basis(es) used for determining the short-term debt interest rate, a copy(ies) of the changed basis(es) or identification of where it/they may be reviewed;

(C) Workpapers, in electronic format where available (with formulas intact), supporting all items in subsections (A) and (B) that are not provided in the electric utility's section (5) submission shall be submitted through EFIS and provided to staff, OPC, and other parties;

(D) The electric utility shall initiate a new case with an ER designation for each periodic adjustment of its FARs;

(E) An electric utility with a FAC shall file an adjustment to its FARs within two (2) months of the end of each accumulation period after the effective date of the FAC;

(F) The tariff sheets reflecting the RAM define the costs and revenues that can be included in the RAM, subject to the following:

1. If an RTO implements a new market settlement type that the electric utility or another party believes possesses the characteristics of, and is of the nature of, an RTO revenue or cost type approved by the commission for inclusion in the electric utility's FAC in the previous general rate increase, the electric utility shall include the new market settlement type subject to the following requirements:

A. The party proposing the inclusion of a new market settlement type shall make a filing before the commission.

(I) If the electric utility is proposing the inclusion of a new market settlement type, it will make a filing with the commission giving notice of the new cost or revenue type no later than sixty (60) days prior to the electric utility including the new settlement type in the ANEC.

(II) If a party other than the electric utility is proposing the inclusion of a new market settlement type, the filing shall be made sixty (60) days prior to the electric utility's next periodic adjustment filing;

B. The filing shall include, but is not be limited to:

(I) Identification of the account affected by the change;

(II) A description of the new settlement type demonstrating that it possesses the characteristics of, and is of the nature of a cost or revenue type allowed in the electric utility's FAC by the commission in the preceding general rate case; and

(III) Identification of the preexisting schedule, or market settlement type which the new settlement type replaces or supplements; and

C. To challenge the inclusion of a new market settlement type, a party shall make a filing before the commission including the reasons why it believes the electric utility did not show that the new market settlement type possesses the characteristics of a cost or revenue type allowed by the commission.

(I) The filing shall be made within thirty (30) days of the electric utility's filing.

(II) The party requesting the inclusion of the new market settlement type shall bear the burden of proof to show that the new market settlement type possesses the characteristics of, and is of the nature of a cost or revenue type allowed in the electric utility's FAC by the commission in the preceding general rate case.

(III) If a party challenges the inclusion of the market settlement type, the challenge will not delay the FAR filing schedule.

(IV) If the challenge is upheld by the commission, the costs will be refunded or revenues returned along with interest in the next periodic adjustment;

(G) The electric utility must be current on its submission of its surveillance monitoring reports;

(H) Staff shall review the information filed and submitted by the electric utility in accordance with this rule and additional information obtained through discovery, if any, to determine if the proposed adjustment to the FARs is in accordance with the provisions of this rule, section 386.266, RSMo, and the FAC mechanism established, continued, or modified in the utility's most recent general rate proceeding. Within thirty (30) days after the electric utility files its testimony and tariff sheets to adjust its FARs, the staff shall submit a recommendation regarding its examination and analysis to the commission;

(I) OPC and other parties may file a response to the electric utility's proposed FAR adjustment within forty (40) days after the electric utility files its testimony and tariff sheet(s) to adjust its FARs;

(J) Within sixty (60) days after the electric utility files its testimony and tariff sheet(s) to adjust its FARs, the commission shall either—

1. Issue an interim rate adjustment order approving the tariff sheets and the adjustments to the FARs;

2. Allow the tariff sheets and the adjustments to the FARs to take effect without commission order; or

3. If it determines the adjustment to the FARs is not in accordance with the provisions of this rule, section 386.266, RSMo, and the FAC mechanism established in the electric utility's most recent general rate proceeding, reject the proposed rate schedules, suspend the timeline of the FAR adjustment filing, set a prehearing date, and order the parties to propose a procedural schedule. The commission may order the electric utility to file tariff sheet(s) to implement interim adjusted FARs to reflect any part of the proposed adjustment that is not in question;

(K) If the staff, OPC, or other party which receives, pursuant to 4 CSR 240-2.135, the information that the electric utility is required to submit and as ordered by the commission in a previous proceeding, believes the information is insufficient to make a recommendation regarding the electric utility's proposed FAR, it shall notify the electric utility within ten (10) business days of the electric utility's filing of tariff sheets to adjust the FARs and identify the information required and not submitted in compliance with that rule or order. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was in compliance with the requirements of this rule and the commission's most recent order establishing, continuing, or modifying the FAC, within ten (10) business days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission.

1. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase the FARs shall be suspended. If the commission then issues an order requiring the information be provided, the time necessary for the information to be provided shall further extend the processing timeline for the adjustment to increase the FARs. If the commission issues an order compelling discovery, interest will not be accrued by the utility from the time the commission receives a motion to compel until the time that the utility provides the requested information. For good cause shown the commission may further suspend this timeline.

2. Except as provided herein, any delay in providing sufficient information in compliance with this rule and the commission's most recent order establishing, continuing, or modifying the FAC in a request to decrease the FARs shall not alter the processing timeline.

*[(5)]***(9)** True-Ups of RAMs. *[An electric utility that files for a RAM shall include in its tariff schedules and application, if filed in addition to tariff schedules, provision for true-ups on at least an annual basis which shall accurately and appropriately remedy any over-collection or under-collection through subsequent rate adjustments or refunds.]* **The purpose of a**

true-up case is to accurately and appropriately remedy any over-billing or under-billing during a recovery period, including the interest accrued at the utility's short-term interest rate.

[(A) The subsequent true-up rate adjustments or refunds shall include interest at the electric utility's short-term borrowing rate.

(B) The true-up adjustment shall be the difference between the historical fuel and purchased power costs intended for collection during the true-up period and billed revenues associated with the RAM during the true-up period.]

(A) When an electric utility files with the commission to true-up its RAM the filing shall be accompanied by—

1. Pre-filed testimony that includes a discussion detailing the material factors which contributed to the true-up amount;

2. The following information in electronic format where available (with formulas intact):

A. Any revision to the calculation of the net base energy cost for the accumulation period;

B. The calculation of the monthly amount that was over-billed or under-billed through its RAM;

C. The electric utility's monthly short-term debt interest rate along with—

(I) An explanation of how that rate was determined;

(II) The calculation of the short-term debt interest rate;

(III) Identification of any changes in the basis(es) used for determining the short-term debt interest rate since the last RAM rate adjustment; and

(IV) If there is a change in the basis(es) used for determining the short-term debt interest rate, a copy(ies) of the changed basis(es) or identification of where it/they may be reviewed;

D. Any additional information that the commission has ordered the electric utility to include in its RAM true-up filing;

3. Workpapers, in electronic format where available (with formulas intact), supporting all items in this subsection, shall be submitted in EFIS and provided to staff, OPC, and other parties.

(B) The electric utility shall initiate a new file in EFIS designated as an "electric other" (EO) file number for each true-up of its RAM.

(C) The electric utility must be current on its submission of its *[S]***s**urveillance *[M]***m**onitoring *[R]***r**eports *[as required in section (10) and its monthly reporting requirements as required by 4 CSR 240-3.161(5)]* at the time that it files its *[application for a]* true-up of its RAM in order for the commission to process the electric utility's requested *[annual]* true-up of any *[under-collection]* **under-billing**.

(D) The staff shall examine and analyze the information filed **and submitted** by the electric utility pursuant to 4 CSR 240-3.161 and additional information obtained through discovery, to determine whether the true-up is in accordance with the provisions of this rule, section 386.266, RSMo and the RAM established in the electric *[utility's most recent general rate proceeding.]* **utility pursuant to this rule and additional information obtained through discovery and as ordered by the commission, to determine whether the true-up amount is in accordance with the provisions of this rule, section 386.266, RSMo, and the RAM established in the electric utility's most recent general rate proceeding.** The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files *[its tariff schedules for a true-up. The commission shall either issue an order deciding the true-up within sixty (60) days of the electric utility's filing, suspend the timeline of the true-up in order to receive additional evidence and hold a hearing if needed or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect by operation of law sixty (60) days after the utility's filing]* **for a true-up amount**.

[1. If the staff, OPC or other party which receives, pursuant to a protective order, the information that the electric utility is required to submit in 4 CSR 240-3.161 and as ordered by the commission in a previous proceeding, believes the information that is required to be submitted pursuant to 4 CSR 240-3.161 and the commission order establishing the RAM has not been submitted or is insufficient to make a recommendation regarding the electric utility's true-up filing, it shall notify the electric utility within ten (10) days of the electric utility's filing and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was responsive to the requirements, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing timeline for the adjustment to the FAC rates shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown the commission may further suspend this timeline.

2. If the party requesting the information can demonstrate to the commission that the adjustment shall result in a reduction in the FAC rates, the processing timeline shall continue with the best information available. When the electric utility provides the necessary information, the RAM shall be adjusted again, if necessary, to reflect the additional information provided by the electric utility.]

(E) OPC and other parties may file a response to the proposed true-up amount within forty (40) days of the electric utility true-up filing.

(F) Within sixty (60) days of the electric utility's true-up filing the commission shall issue an order—

1. Allowing the tariff sheet(s) reflecting the true-up amount to take effect without commission order; or

2. If it determines that the true-up amount reflected in the tariff sheet(s) is incorrect, rejecting the proposed tariff sheet(s) containing the true-up amount, suspending the timeline of the true-up filing, setting a prehearing date, and ordering the parties to propose a procedural schedule. The commission shall allow the electric utility to file tariff sheet(s) to implement interim FARs reflecting any part of the true-up amount that is not in question, and questions about the correctness of the true-up amount will not delay adjustments to FAR rates unrelated to the true-up.

(G) If the staff, OPC or other party which receives, pursuant to 4 CSR 240-2.135, the information that the electric utility is required to submit and as ordered by the commission in a previous proceeding, believes the information is insufficient to make a recommendation regarding the electric utility's true-up filing, it shall notify the electric utility within ten (10) days of the electric utility's filing and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was responsive to the requirements, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission.

1. While the commission is considering the motion to compel, the processing timeline for the determination of the true-up amount shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. If the commission issues an order compelling discovery, interest will not be accrued by the utility from the time

the commission receives a motion to compel until the time that the utility provides the requested information. For good cause shown the commission may further suspend this timeline.

2. If the party requesting the information can demonstrate to the commission that the true-up amount shall result in a reduction in the FAR, the processing timeline shall continue with the best information available. When the electric utility provides the necessary information, the FAR shall be adjusted again, if necessary, to reflect the additional information provided by the electric utility.

*[(6)]***(10)** Duration of RAMs and Requirement for General Rate Case. Once a RAM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification, extension, or discontinuance of the RAM in a general rate proceeding, although an electric utility may submit proposed rate schedules to implement periodic adjustments to its FAC rates between general rate proceedings.

(A) If the commission approves a RAM for an electric utility, the electric utility must file a general rate case with the effective date of new rates to be no later than four (4) years after the effective date of the commission order implementing the RAM, assuming the maximum statutory suspension of the rates so filed.

1. The four**-** (4-)*[-]* year period shall not include any periods in which the electric utility is prohibited from collecting any charges under the *[adjustment mechanism]* **RAM**, or any period for which charges collected under the *[adjustment mechanism]* **RAM** must be fully refunded. In the event a court determines that the *[adjustment mechanism]* **RAM** is unlawful and all *[moneys]* **monies** collected are fully refunded as a result of such a decision, the electric utility shall be relieved of any obligation to file a **general** rate case. The term fully refunded as used in this section does not include amounts refunded as a result of reductions in fuel or purchased power costs **minus fuel-related revenues** or prudence adjustments.

*[(7)]***(11)** Prudence Reviews Respecting RAMs. A prudence review of the costs subject to the RAM shall be conducted no less frequently than at eighteen**-** (18-)*[-]* month intervals.

(A) All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate.

(B) The staff shall **file notice within ten (10) days of starting its prudence review and shall** submit a recommendation regarding its examination and analysis to the commission not later than one hundred eighty (180) days after *[the staff initiates]* **initiating** its prudence *[audit]* **review**. *[The timing and frequency of prudence audits for each RAM shall be established in the general rate proceeding in which the RAM is established. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.]* **Parties to the prudence review proceeding shall have ten (10) days after the staff files its recommendation to request a hearing. The commission shall issue an order not later than thirty (30) days after the staff files its recommendation if no party requests a hearing.**

1. If the staff, OPC**,** or other party auditing the RAM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's RAM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing timeline shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown the commission may further suspend this timeline.

2. If the timeline is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate.

*[(8)]***(12)** Disclosure on Customers' Bills. Any amounts charged under a *[RAM approved by the]* commission**-approved RAM** shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to the commission for the commission's approval **in the general rate proceeding establishing, modifying, or continuing the RAM**.

*[(9)]***(13)** Rate Design of the RAM. The design of the RAM rates shall reflect differences in losses incurred in the delivery of electricity at different voltage levels for the electric utility's different rate classes*[. Therefore, the electric utility shall conduct a]* **as determined through the periodic conduct of Missouri jurisdictional system loss studies. When the electric utility initially seeks authority to use a RAM, the end of the twelve- (12-) month period of actual data collected that is used in its** Missouri jurisdictional system loss study within twenty-four (24) months *[prior to the general rate proceeding in which it requests its initial RAM. The electric utility shall conduct a Missouri jurisdictional loss study no less often than every four (4) years thereafter, on a schedule that permits the study to be used in the general rate proceeding necessary for the electric utility to continue to utilize a RAM.]* **immediately preceding the date the utility files its general rate case requesting a RAM. When the electric utility seeks to continue or modify its RAM, the end of the twelve- (12-) month period of actual data collected that is used in its Missouri jurisdictional system loss study must be no earlier than two (2) years before the beginning of the twelve- (12-) month period the utility uses for developing the general rates it proposes the commission approve in that general rate proceeding.**

[(10) Submission of Surveillance Monitoring Reports. Each electric utility with an approved RAM shall submit to staff, OPC and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.161(6).

(A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the RAM.

(B) If the electric utility also has an approved environmental cost recovery mechanism, the electric utility must submit a single Surveillance Monitoring Report for both the environmental cost recovery mechanism and the RAM.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.161(6), after notice and an opportunity for a hearing, the commission may suspend a fuel adjustment mechanism or order other appropriate remedies as provided by law.]

*[(11)]***(14)** Incentive Mechanism or Performance-Based Program. During a general rate proceeding in which an electric utility has proposed establishment or modification of a RAM, or in which a RAM may be allowed to continue in effect, any party may propose for the commission's consideration incentive mechanisms or performance-based programs to improve the efficiency and cost effectiveness of

the electric utility's fuel and purchased power procurement activities **and/or off-system sales activities**.

(A) The incentive mechanisms or performance-based programs may or may not include some or all components of *[fuel and purchased power costs]* **base energy costs**, designed to provide the electric utility with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased power procurement activities **and/or off-system sales**.

(B) Any incentive mechanism or performance-based program shall be structured to align the interests of the electric utility's customers and shareholders. The anticipated benefits to the electric utility's customers from the incentive or performance-based program shall equal or exceed the anticipated costs of the mechanism or program to the electric utility's customers. *[For this purpose,]* **Customer rates shall include** the cost of an incentive mechanism or performance-based program *[shall include any increase in expense or reduction in revenue credit that increases rates to customers]* in any time period above what they would be without the incentive mechanism or performance-based program.

(C) If the commission approves an incentive mechanism or performance-based program, such incentive mechanism or performance-based program shall be binding on the commission for the entire term of the incentive mechanism or performance-based program. If the commission approves an incentive mechanism or performance-based program, such incentive mechanism or performance based program shall be binding on the electric utility for the entire term of the incentive mechanism or performance-based program unless otherwise ordered or conditioned by the commission.

*[(12)]***(15)** Pre-Existing Adjustment Mechanisms, Tariffs**,** and Regulatory Plans. The provisions of this rule shall not affect*[:]***—**

(A) Any adjustment mechanism, *[rate schedule,]* tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

*[(13)]***(16)** Nothing in this rule shall preclude a complaint case from being filed, as provided by law*[, on the grounds that a utility is earning more than a fair return on equity, nor shall an electric utility be permitted to use the existences of its RAM as a defense to a complaint case based upon an allegation that it is earning more than a fair return on equity]*. If a complaint is filed on the grounds that *[a utility is earning more than a fair return on equity,]* **an electric utility is acting in violation of its approved RAM tariff sheets or on the grounds that its rates have become unjust and unreasonable,** the commission shall issue a procedural schedule that includes a clear delineation of the case timeline no later than sixty (60) days from the date the complaint is filed.

[(14) Rule Review. The commission shall review the effectiveness of this rule by no later than December 31, 2010, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.]

(17) Party status and party rights in RAM proceedings subsequent to the last general rate case where the commission establishes, continues, or modifies the electric utility's RAM.

(A) Each party to the most recent general rate proceeding in which the commission established, continued, or modified the electric utility's RAM shall be a party to each subsequent related RAM rate adjustment proceeding, RAM true-up proceeding, and RAM prudence review proceeding, without applying to the commission for intervention, and shall be provided the periodic reports and surveillance monitoring reports required by this rule during the period of time when they are entitled to be a party to such proceedings without applying for intervention. In any subsequent general rate proceeding, such person or entity must seek and be granted status as an intervenor to be a party to that case and to consequently be a party, without seeking and being granted status as an intervenor to RAM-related proceedings initiated after that case.

(B) Anyone may seek to intervene, pursuant to 4 CSR 240-2.075, in any RAM rate adjustment proceeding, RAM true-up proceeding, RAM prudence review proceeding, or general rate proceeding to modify, continue, or discontinue a RAM. If no party objects to the intervention request within ten (10) days of when it is filed, then the applicant for intervention shall be deemed to have been granted intervention without a specific commission order, unless within the above-referenced ten- (10-) day period the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten- (10-) day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

(18) Discovery. Each discovery response that a party obtains in general rate proceedings where the commission approves, modifies, rejects, continues, or discontinues a RAM and in related subsequent RAM rate adjustment proceedings, RAM true-up proceedings, and RAM prudence review proceedings may be offered as evidence in any subsequent RAM rate adjustment proceeding, RAM true-up proceeding, RAM prudence review proceeding, or general rate proceeding to modify, continue, or discontinue its RAM as if the response were made to a discovery request in that proceeding without requiring the party who made the request to resubmit the same discovery request (data request, interrogatory, request for production, request for admission, or deposition), subject to commission ruling on any evidentiary objection(s). Unless the commission orders otherwise, *sua sponte* or on a party's motion, the discovery response shall have the same protection it was last afforded, by rule or by commission order.

(19) Supplementing and updating discovery responses in subsequent related proceedings. A party who provided a discovery response in a prior case as described in section (18) shall be under no obligation to supplement or update that response in a subsequent proceeding, unless the requesting party issues a discovery request in the subsequent case which clearly identifies the particular discovery requests to be supplemented or updated and the particular period to be covered by the updated response. A party responding to a request to supplement or update a prior proceeding discovery response shall supplement or update the discovery response where the responding party has learned or subsequently learns its response is in some material respect insufficiently detailed or incorrect.

(20) The commission shall establish a new case for each general rate proceeding, RAM rate adjustment proceeding, RAM true-up proceeding, and RAM prudence review proceeding.

(21) Right to Discovery Unaffected. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

*[(15)]***(22)** Waiver of Provisions of this Rule. Provisions of this rule may be waived by the commission for good cause shown after an opportunity for a hearing.

*AUTHORITY: sections 386.250, **386.266,** and 393.140, [RSMo 2000 and 386.266,] RSMo [Supp. 2005] **2016**. Original rule filed June 15, 2006, effective Jan. 30, 2007. Amended: Filed May 24, 2018.*

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 the proposed amendment with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 6, 2018, and should include a reference to Commission Case No. EX-2016-0294. Comments may also be submitted via a filing using the commission's electronic filing and information system at http://www.psc.mo.gov/efis.asp. A public hearing is scheduled for August 13, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 2—Referendums

PROPOSED AMENDMENT

10 CSR 70-2.010 Conduct of Referendums. The commission is amending sections (1), (2), (4), (6), and (7); deleting section (5) and renumbering sections (6) and (7). Proposed amendments will delete or update obsolete rule language in sections (1) and (7); delete language that is duplicative with state statutes in sections (1) and (2); delete applicable rule requirements and procedures in sections (4), (5), and (7) and move to commission policy (District Operations Manual) and delete and replace restrictive words in sections (1), (2), (4), (5), and (7).

PURPOSE: This rule is being amended because it has not been revised since 1955 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-2.010 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

(1) The **process for the** local committee and election judges *[shall]* **is**—

(A) Publish successive notices of the referendum *[and selection of supervisors]* in one (1) or more newspapers in the county where the referendum is being held **during** each of the two (2) weeks immediately preceding the referendum;

(B) *[Provide sealed ballot boxes and o]***O**pen polls promptly at the time advertised;

(C) Furnish official ballots to each polling place; and

(D) Close the polls promptly at the closing hour designated but allow those who have entered the polling place before this time to complete their ballots.

(2) *[Three (3) official election judges are required for each polling place. They must be residents and landowners within the proposed district.]* If any elected judge is not present at the polls on the date and time of the referendum, *[those]* **the** judges present may select any citizen *[of]* **in** the *[proposed]* district to serve in *[his/her]* **their** place and *[give him/her]* **provide** the necessary instructions. *[All instructions to judges must make clear that any person designated to conduct a referendum or assist in a referendum and who thereby gains knowledge as to how any land representative voted and reveals knowledge to any other person shall be guilty of a misdemeanor.]*

(3) Only one (1) vote is allowed per farm *[either]* by the owner or *[his/her]* **their** legal representative. A tract of land must be operated as an independent farm enterprise to entitle its land representative to a single vote. Two (2) or more tracts of land that are operated by one (1) management **entity** as an independent farm enterprise will be entitled to one (1) vote. *[The size of each farm must be at least three (3) acres or more.]*

(4) Each farm owner may personally cast as many votes in the soil district referendum *[and election of supervisors]* as *[s/he]* **they** own*[s]* independently operated farms. If *[it is impossible for]* the landowner **is unable** to personally cast *[his/her]* **their** eligible vote(s) *[because of absentee landownership, sickness or for any other reason over which s/he has no control, the soil districts law provides that s/he]***, they** may give a power of attorney to a taxpayer residing within the county to represent *[him/her]* **them** in *[this]* **the** referendum *[and election of supervisors. It is the policy of the commission to require that this taxpayer not be a legal land representative for more than one (1) landowner, unless legal representation has been established previously by reason of professional or paid farm managership]*.

[(5) Immediately after closing the polls, the judges shall open the ballot boxes and carefully count the ballots cast. They shall tally on the tally sheet provided for the referendum, the number of "Yes" votes and the number of "No" votes and on the tally sheet provided for the election of supervisors write plainly the names of the nominees in the proper spaces and tally the votes each receives on the lines just below the name. The nominee who receives the largest number of votes will be declared elected a supervisor provided the State Soil and Water Districts Commission finds that the vote constituted a substantial expression of opinion.]

*[(6)]***(5)** All blanks on **the** *["L]***l**ist of *[V]***v**oters*["]* and all *["R]***r**eferendum*["]* and *["E]***e**lection*["]* tally sheets must be correctly filled in.

*[(7)]***(6)** *[After the ballots have been counted, they shall be sealed in a package by the judges at the polls and shall not be inspected except in the case of a contested election and then only on order of the proper court. Arrangements should be made to return ballot boxes, "Listing" sheets, "]*Referendum*["]* and *["E]***e**lection*["]* tally sheets and all supplies **should be returned** to the clerk of the county court within twenty-four (24) hours after polls are closed, where they shall be safely preserved for twelve (12) months. In case arrangements cannot be made with the county clerk, all these materials shall be sent to the chair*[man]* of the *[State]* Soil and Water Districts Commission. The chair*[man]* of the local committee and the clerk of the county court shall certify the total referendum vote by area*[s]* and polling place*[s and the total election votes by areas for each nominee]* and report the*[ir]* results to the *[director]* **chair** of the Soil and Water Districts Commission.

*AUTHORITY: section 278.080, RSMo [1986] **2016**. This version of rule filed Dec. 7, 1955, effective Dec. 17, 1955. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 2—Referendums

PROPOSED AMENDMENT

10 CSR 70-2.020 Conduct of Supervisor Elections. The commission is amending sections (2), (3), (6), (8), and (11); deleting sections (1), (4), (5), (7), (9), and (10) and renumbering sections (2), (3), (6), (8), and (11). Proposed amendments will delete section (1) and move definitions to 10 CSR 70-4.010; delete or update obsolete rule language in sections (2), (3), (6), (8), and (11); delete language that is duplicative with state statutes in sections (1) and (6); delete applicable rule requirements and procedures in sections (4), (5), (7), (8), (9), and (10) and move to commission policy (District Operations Manual); and delete and replace restrictive words in sections (1), (2), (4), (5), (8), (9), and (10).

PURPOSE: This rule is being amended because it has not been revised since 1987 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-2.020 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

[(1) Definitions

(A) SWCD—a Soil and Water Conservation District established in accordance with the provisions of sections 278.060 and 278.155, RSMo.

(B) Landowner—any person, firm or corporation who holds title to any lands lying within a district organized under Chapter 278, RSMo.

(C) Land Representative—the owner, or representative authorized by power of attorney, of any farm lying within the SWCD; provided, however, that any land representative must be a taxpayer of the county within which the SWCD is located.

(D) Farm—land which has been assigned an ASCS (U.S.D.A., Agricultural Stabilization and Conservation Service) farm number or land which has been assessed as agricultural land within land grades I through VII by the county assessor.

(E) Commission—the Soil and Water Districts Commission of the state of Missouri, the agency created by state law for administration of Soil and Water Conservation Districts.]

*[(2)]***(1)** The **Soil and Water Conservation District (**SWCD**)** Board *[of Supervisors]* is responsible for conducting the election *[under the rules and procedures developed by the commission. The SWCD Board shall conduct an election by the date or within four (4) months after the date a term of office expires]* **of supervisors**. **Elections may be conducted electronically or with paper ballots.**

*[(3)]***(2)** The SWCD shall be partitioned by the commission into four (4) territories for the purpose of identifying *[nominating committees and subsequently,]* candidates for the *[office of]* SWCD *[supervisor]* **board**.

[(4) The SWCD Board shall identify one (1) nominating committee for each territory where a term of office is expiring. A committee shall consist of three (3) land representatives residing in the same territory where the committee has responsibility. No elected supervisor may serve on a nominating committee.

(5) A nominating committee has the duty to nominate not less than two (2) qualified candidates. The committee shall submit the names of candidates who have agreed to serve, if elected, to the SWCD Board. These names shall be provided not less than two (2) months prior to the proposed election date.]

*[(6)]***(3)** To qualify for office, a candidate shall—

(A) Be a land representative as defined in *[(1)(C)]* **10 CSR 70-4.010**;

[(B) Be a resident taxpaying citizen within that SWCD for two (2) years next preceding the election date;]

*[(C)]***(B)** Be a cooperator of the SWCD; *[and]*

*[(D)]***(C)** Reside in or own a farm lying in the same territory where *[the nominating committee has responsibility.]* **there is an expiring term; and**

(D) Be eighteen (18) years of age or older by the election date.

[(7) Any land representative not nominated by the nominating committee, but residing in a territory where an office term is expiring, may become a candidate for office and may have their name placed on the ballot if they meet the preceding qualifications and complete the following requirements:

(A) Secure petition signatures of ten (10) land representatives in the territory where an office term is expiring stating desire for placing this candidate's name on the ballot; and

(B) Submit the petition to the SWCD Board not less than ten (10) work days before the date of the election.]

*[(8)]***(4)** Eligibility for Voting.

(A) *[Only a land representative is eligible to cast a vote in SWCD supervisor elections. If challenged, eligibility to vote must be demonstrated by the land representative.]* **To vote in the election, voters must own land that is assessed agricultural by the county assessor and each entity who is a legal landowner or their Power of Attorney, which includes voting in SWCD elections, is entitled to one (1) vote.**

[(B) Each farm as defined in (1)(D) shall be entitled to representation in SWCD supervisor elections and for the purposes of this rule a land representative shall be deemed as owning one (1) farm and having one (1) vote regardless of the number of farms claimed by such person.

(C) In the event of a farm as defined in (1)(D) being owned by more than one (1) person the following voting limitations shall apply:

1. A farm owned by a firm or corporation may be represented by one (1) vote cast by one (1) land representative so authorized by the firm or corporation; and

2. A farm owned by a partnership, or jointly by a husband and wife, may be represented by two (2) votes cast by two (2) land representatives.

(D) An eligible land representative of an SWCD, as defined

in (1)(C), may vote in any SWCD supervisor election held within that particular SWCD.

(E) If it is impossible for the farm owner to personally participate in voting, a Power of Attorney may be given to a taxpaying citizen of the county who may represent the owner and cast the vote. A person so authorized shall not be the legal land representative for more than one (1) farm owner. The Power of Attorney authorization must be given to the election judges.

(9) SWCD Board Responsibility.

(A) Publish two (2) legal notices of election in a newspaper of general circulation in the SWCD. One (1) notice shall appear in the latest issue distributed before the election date, the other notice shall appear one (1) week prior to the final one. The notice may include a sample ballot.

(B) Select and instruct three (3) residents of the SWCD to serve as election judges. Three (3) judges are required for each polling location.

(C) Provide a locked or sealed ballot box for each polling location. Provide ballots, tally sheets, list of voters sheets and a storage envelope to the judges.

(D) Store the sealed envelope containing voted ballots for one (1) year from the election date in a secure location.

(E) Require the poll to be open in accordance with one (1) of the following:

1. If the election is held in conjunction with an annual meeting, provisions must be made to have the balloting available at a central location not later than twelve (12:00) noon on the day of the annual meeting. The balloting shall be moved to the meeting place in order to give those attending the opportunity of casting a ballot. The time for closing the polls of each location shall be specified in the legal notices; or

2. If no annual meeting is to be held during the period specified for holding the election, provisions should be made for conducting the election at one (1) or more locations for a period of not less than six (6) hours.

(10) Election Judge Responsibility

(A) Open and close the polls promptly at the time advertised allowing those who have entered the polls before closing time to complete their ballots.

(B) Collect and attach any Power of Attorney authorization to the List of Voters form and make the proper notation on the form.

(C) After the polls are closed, count the ballots, record on the tally sheet the number of votes each candidate received and certify the count.

(D) Place the counted ballots in an envelope and seal them. After sealing, ballots shall not be inspected except in case of a contested election and then only on order of the proper court.

(E) Hand over the sealed ballots to the District Board of Supervisors for proper storage.]

*[(11)]***(5)** The election shall be certified by a majority of the board responsible for conducting the election. The SWCD Board of Supervisors shall complete and sign two (2) copies of the *["R]***r**eport and *[C]***c**ertification of *[S]***s**upervisor *[E]***e**lection*["]* form. One (1) copy shall be mailed to the Soil and Water Conservation Program and one (1) copy shall be kept permanently in the SWCD files*[,]* along with the tally sheet signed by the judges. After the election, the newly composed board shall select new officers and mail a copy of the *[reorganization of]* officers*[, with their complete addresses,]* to the Soil and Water Conservation Program.

*AUTHORITY: section 278.080.5(2), RSMo [1986] **2016**. Original rule filed May 28, 1987, effective Aug. 27, 1987. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 3—Formation of Subdistrict

PROPOSED AMENDMENT

10 CSR 70-3.010 Formation of Soil and Water Conservation Subdistricts. The commission is amending sections (3), (9), (10), (15), (16), and (20); deleting sections (1), (4), (5), (6), (7), (8), (12), (13), (14), (18), and (22) and renumbering sections (2), (3), (9), (10), (11), (15), (16), (17), (19), (20), (21), and (23). Proposed amendments will delete or update obsolete rule language in sections (9), (10), and (20) and delete language that is duplicative with state statutes in sections (3), (9), (15), (16), and (20).

PURPOSE: This rule is being amended because it has not been revised since 1957 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-3.010 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

[(1) Petitions are to be filed with the board of supervisors of the soil and water conservation district by the landowners within the proposed subdistrict. The petition shall set forth and meet the following qualifications:

(A) Request a hearing and referendum on the formation of the subdistrict;

(B) Shall include the entire hydrologic area on which a proposed plan of work is to be developed and the area included must be contiguous and;

(C) Shall provide a legal description of the land suggested for inclusion in the subdistrict (incorporated areas may be excluded by description);

(D) Contain a brief statement of the reason for organization;

(E) Be signed by one (1) or more owners of at least fifty percent (50%) of the lands within the proposed subdistrict; and

(F) Request that the proposed area be organized as a subdistrict.]

*[(2)]***(1)** Petition forms may be secured from the local soil and water conservation district board of supervisors or from the state commission office in Jefferson City, Missouri.

*[(3)]***(2)** *[The petitions shall be reviewed by the supervisors of the local soil and water conservation district, and if found*

adequate, they shall arrange for a hearing.] The soil and water conservation districts' supervisors should require certification by an elected county official that the signatures on the petition are those of bonafide landowners.

[(4) Within thirty (30) days after petitions have been filed, the board of soil and water conservation district supervisors shall fix a date, hour and place for a hearing.

(5) The board directs the chairman to cause notice to be given to the owners of each tract of land within the proposed subdistrict. The notice to be by publication once each week for two (2) consecutive weeks in one (1) newspaper of general circulation in the county, the last publication of which shall not be less than ten (10) days prior to the date set for the hearing on the petition. Proof of this service shall be by affidavit of the publisher and be on file with the Soil and Water Districts Commission office in Jefferson City at the time the hearing begins.

(6) The soil and water conservation districts' supervisors shall consider and determine whether the operation of the subdistrict is desirable, practicable, feasible and of necessity in the interest of public health, safety and the general welfare.

(7) All objections to establishment of a subdistrict for any reason must be made in writing and filed with the secretary of the board of supervisors (or combined boards, if applicable) at, or before, the time set for the hearing.

(8) All interested parties shall have the right to attend the hearing and to be heard.]

*[(9)]***(3)** The supervisors may divide a subdistrict into *[three (3)]* **five (5)** areas to nominate trustees.

*[(10)]***(4)** Landowners present at the hearing will nominate at least two (2) landowners from each of the *[three (3)]* **five (5)** designated areas, whose names will be placed on the ballot for election to serve as trustees of the subdistrict.

*[(11)]***(5)** Landowners present at the hearing will name the polling places and select the judges of the polls for the referendum.

[(12) The soil and water conservation districts' supervisors, for good cause, may adjourn the hearing to a day certain which shall be announced at the time of adjournment and made a matter of record.

(13) A copy of the official notice of hearing shall be filed with the Soil and Water Districts Commission in Jefferson City.

(14) After the hearings, upon reaching a favorable conclusion, the soil and water conservation district supervisors shall call for and conduct, or cause to be conducted, a referendum.]

*[(15)]***(6)** *[The referendum shall be by ballot of landowners within the area of the proposed subdistrict.]* Any landowner may be represented by notarized proxy not more than one (1) year old.

*[(16)]***(7)** The voting will be on the question of establishing the proposed area as a subdistrict. *[The ballot shall be so worded as to clearly state that a tax, not to exceed forty cents (40¢) on one hundred dollars ($100) valuation of all real estate within the subdistrict, will be authorized if the subdistrict is formed.]*

*[(17)]***(8)** Notice of the referendum shall be made in the same manner as the notice of the hearing and a copy of the notice shall be filed with the Soil and Water Districts Commission in Jefferson City.

[(18) If sixty-five percent (65%) or more of all landowners voting in a referendum vote in favor of the establishment of a soil and water conservation subdistrict, the soil and water conservation district supervisors shall declare that the subdistrict is duly organized and the action shall be recorded in their official minutes together with an appropriate official name or designation of the subdistrict.]

*[(19)]***(9)** After the entry in the official minutes of the board of soil and water conservation district supervisors of the creation of the subdistrict, the soil and water conservation districts' supervisors shall certify this fact on a separate form and record authentic copies by filing it with the recorder of deeds of each county in which any portion of the subdistrict lies. The certification form shall also be filed with the Soil and Water Districts Commission in Jefferson City.

*[(20)]***(10)** *[Three (3)]* **Five (5)** landowners representing the *[three (3)]* **five (5)** designated areas within the proposed subdistrict shall be elected to serve as trustees of the subdistrict. *[One (1) trustee shall be elected for a period of two (2) years; one (1) trustee shall be elected for a period of four (4) years; and one (1) trustee shall be elected for a period of six (6) years. Each of their successors shall be elected for a period of six (6) years.]* Elections shall not fall upon the date of any regular political election held in the county and a simple majority vote is needed to elect a trustee. *[The trustees shall be responsible for the administration of the subdistrict. Each trustee shall be reimbursed for any expenses incurred in carrying out his/her responsibilities for the subdistrict.]*

*[(21)]***(11)** The board of supervisors of a subdistrict shall submit to the Soil and Water Districts Commission copies of any rules, forms, or other documents used in pursuance of their duties and other information concerning their activities as the commission may require.

[(22) Subdistricts may be formed lying in more than one (1) soil and water conservation district. In this case, the wording of all forms and documents used in this formation will be changed to read in the plural as necessary. If the proposed subdistrict lies in more than one (1) soil and water conservation district, the petition may be presented to the board of any one (1) of the districts and the supervisors of all districts shall act jointly as a board with respect to all matters concerning the subdistrict, including its formation. They shall organize a single board and designate the chairman, vice-chairman, secretary and treasurer. The treasurer shall be the duly elected and bonded treasurer of one (1) of the component boards of supervisors.]

*[(23)]***(12)** If the boundary of a subdistrict intersects a property, no less than a legally described one-quarter of a quarter section of land (40 acres) shall be considered for tax assessment purposes.

AUTHORITY: section 278.210, RSMo [1986] ***2016****. Original rule filed Aug. 12, 1957, effective Aug. 22, 1957. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 4—Definitions

PROPOSED AMENDMENT

10 CSR 70-4.010 Definitions. The commission is amending section (1) and subsections (A) and (D) through (Q); deleting subsections (B) and (C); and relettering subsections (A) and (D) through (Q). Proposed amendments will delete or update obsolete rule language in subsections (K), (L), (N), and (O) and delete and replace restrictive words in subsections (A) and (D) through (Q).

PURPOSE: This rule is being amended because it has not been revised since 1983 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-4.010 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

(1) Definitions. *[As used in these rules, unless the context otherwise requires—]*

(A) Act *[shall]* means the Missouri Soil and Water Conservation Districts Law;

[(B) Actual approved costs shall mean the amounts determined to be fair and reasonable costs incurred in establishing eligible practices to be cost-shared through the Missouri Soil and Water Conservation Cost-Share Program. These costs shall include those items established under 10 CSR 70-5.040(2);

(C) Apportion shall mean to set aside funds for use in accordance with the act and these rules, but shall not mean any physical distribution or other transfer of funds;]

*[(D)]***(B) District board or** *[B]***board** or board of supervisors *[shall]* means the local governing body of a soil and water conservation district elected or appointed in accordance with the provisions of the Act;

*[(E)]***(C)** State Soil and Water Districts Commission or commission *[shall]*means the agency created by section 278.080, RSMo for the administration of the soil and water conservation districts provided for by the Act;

*[(F)]***(D)** Conservation plan *[shall]* means the properly recorded decisions of the cooperating landowner on how *[s/he]* **they** plan*[s]*, within practical limits, to use *[his/her]* **their** land in an operating unit within its capabilities and to treat it according to its needs for maintenance or improvement of the soil, water**,** and other related resources;

*[(G)]***(E)** Cost-Share Program *[shall]* means the Missouri State Soil and Water Conservation Cost-Share Program created by the Missouri State Soil and Water Conservation Districts Act, *[c]***C**hapter 278, RSMo;

*[(H)]***(F)** District *[shall]* means a soil and water conservation district as defined in 278.070(4), RSMo;

*[(I)]***(G)** Eligible practice *[shall]* means a soil and water conservation practice designated as eligible for state cost-share funds by the commission in accordance with 10 CSR 70-5.020(1);

*[(J)]***(H)** Farm *[shall]* means a tract of land three (3) acres or more in size on which agriculture activities are normally performed or a tract of land of any size from which one thousand dollars ($1000) or more of agriculture products are normally sold in a year;

*[(K)]***(I)** Landowner *[shall]* means any person, firm**,** or corporation holding title to any lands lying within a district organized or to be organized under the provisions of chapter 278, RSMo. Any landowner may be represented by notarized power-of-attorney not more than one (1) year old**. The term operator may be used interchangeably with landowner only for Chapter 5. The operator is the principal person who runs a farm by conducting or supervising the work, making day-to-day management decisions and incurring expenses for applying or implementing conservation practices. The operator may be a landowner, tenant, lessee, or sublessee**;

*[(L)]***(J)** Land representative*[,]* **means** the owner or representative authorized by power-of-attorney of any farm lying within an area proposed to be established, and subsequently established, as a soil and water conservation district under Chapter 278, RSMo. Each farm *[shall be]* **is** entitled to representation by a land representative; provided, however, that *[any]* **the** land representative *[must be]* **is** a taxpayer of the county within which the soil and water district is located;

*[(M)]***(K)** Participating district *[shall]* means a soil and water conservation district which is a party to a then current Memorandum of Understanding entered into in accordance with 10 CSR 70-5.010(1);

*[(N)]***(L)** Practice *[shall]* means any individual structure, conservation measure**,** or operation which *[shall]* constitutes a viable method of erosion abatement *[and]***,** sediment control**, or protection of water quality**;

*[(O)]***(M)** *[SCS shall]* **NRCS** means the United States Department of Agriculture *[Soil]* **Natural Resources** Conservation Service;

*[(P)]***(N)** State cost-share funds *[shall]* means funds available through the Missouri State Soil and Water Conservation Cost-Share Program; and

*[(Q)]***(O)** Tolerable soil loss limits *[shall]* means the maximum rate of annual soil loss that will permit crop productivity to be obtained economically and indefinitely.

*AUTHORITY: Chapter 278, RSMo [1986] **2016**. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. Amended: Filed Dec. 14, 1982, effective April 11, 1983. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.*

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

PROPOSED AMENDMENT

10 CSR 70-5.010 *[Apportionment]* ***Allocation*** **of Funds**. The commission is amending the rule title and sections (1) and (2); deleting

subsections (2)(A) and (2)(B), adding new section (3), and relettering the remaining subsections under (2). Proposed amendments will delete or update obsolete rule language in sections (1) and (2) and delete or replace restrictive words in sections (1) and (2).

PURPOSE: This rule is being amended because it has not been revised since 2008 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-5.010 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

(1) General Availability of Funds. State cost-share funds *[shall be]* **are** available only to landowners *[of land]* located in soil and water conservation districts which have agreed to locally administer the program and have executed a Memorandum of Understanding with the commission setting forth the terms of assistance. To be eligible, a landowner must have a conservation plan as approved by the district.

(2) Annual *[Apportionment]* **Allocation** of Funds. All funds *[apportioned]* **allocated** to the cost-share program for any fiscal year shall be apportioned by the commission to the participating districts by considering the character of the districts' **soil and water conservation** needs according to criteria developed by the commission.

[(A) Fiscal Year Limitations. Funds allocated to districts but unclaimed at the end of each fiscal year, shall be returned to the commission.

(B) Release of Funds for Reapportionment. A district, at any time, may provide notice to the commission that it has not obligated all funds made available under section (2), that it does not expect to do so by the end of the fiscal year and that it releases any portion of those funds for reapportionment by the commission.

(C) Termination of the Memorandum of Understanding. In the event that the Memorandum of Understanding required by section (1) is terminated by any district or by the commission, the district shall release all funds unobligated as of the effective date of termination and shall further release, as they become available, obligated funds for which no claim for payment is made in a timely manner.

(D) Use of Released Funds. Funds released by any district in accordance with subsections (2)(A)–(C) shall be returned to the Cost- Share Program to be reallocated by the commission considering the relative need basis or reserved by the commission for special allotment under subsection (2)(E).]

*[(E)]***(A)** Special *[Allotments]* **Allocations**. The commission may withhold funds from the general *[apportionment under section (2) and may reserve funds released by the districts under subsections (2)(A)–(C)]* **allocation** for the purpose of cost-sharing special projects which the commission considers necessary and of high priority for the *[abatement of soil erosion and the controlling of sediment. The funds thus withheld for the general apportionment or returned to the commission shall be allotted to a district(s) specified by the commission for the cost-sharing of certain critical-needs projects. The special critical-needs projects shall be planned and designed by the commission incorporating the cooperative assistance of the local district(s) involved and with the technical assistance available to the district(s)]* **saving of soil and water on Missouri's agricultural land**.

(3) Termination of the Memorandum of Understanding. In the event that the Memorandum of Understanding is terminated by any district or by the commission, the commission may withdraw funds assigned to that district.

AUTHORITY: sections 278.070, ***278.080,*** *and 278.110, RSMo [2000 and section 278.080, RSMo Supp. 2007]* ***2016****. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expired Feb. 25, 2010. Amended: Filed Sept. 26, 2007, effective May 30, 2008. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.*

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

PROPOSED AMENDMENT

10 CSR 70-5.020 Application and Eligibility for Funds. The commission is amending sections (1) through (9). Proposed amendments will delete or update obsolete rule language in sections (1) through (9); delete applicable rule requirements and procedures in section (2) and move to commission policy (Cost-Share Handbook); and delete and replace restrictive words in sections (1), (2), (3), (5), (6), (7), (8), and (9), and delete the forms following the rule.

PURPOSE: This rule is being amended because it has not been revised since 1999 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-5.020 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

(1) Establishing Practice Eligibility. The commission *[shall]* establish**es** a list of eligible practices for which cost-share funds *[should be utilized]* **are available** and *[annually shall]* affirm**s** or modif*[y]***ies** the list as it considers appropriate. The participating districts shall develop annual priority listings of preferred practices from the commission eligibility list upon which they will base their considerations for cost-sharing. Landowners *[shall be]* **are** eligible for cost-share funds *[only]* for **only** the *[types of]* practices designated as eligible *[for these purposes]* by **both** the Soil and Water Districts Commission and *[by]* the participating districts. No eligible practices are available to treat flood scouring problems.

(2) Application for Assistance. To be eligible for assistance from the Cost-Share Program, a landowner must make application on forms provided by the commission. Copies of these forms *[shall be]* **are** available at district offices. The district's board will act upon only those applications for cost-sharing from landowners who have a conservation plan as approved by the district*[, except as provided in sections (7) and (8), and]* for eligible practices on which construction or implementation has not yet begun. *[In commission-approved Special Area Land Treatment (SALT) program projects, the district board of supervisors may approve SALT cost-share applications at the date of the conservation plan approval or at the approval date of the SALT project, whichever is later.]* However, governmental agencies, political subdivisions**,** and public institutions

are excluded from participation in the Cost-Share Program. *[As a further stipulation for receiving cost-sharing assistance, the land upon which the practice is to be implemented or constructed must be eroding at rates greater than tolerable soil loss limits or be experiencing active gully erosion, except that cost-sharing assistance also may be available in the following instances when excessive erosion is not necessarily occurring:]*

[(A) For eligible practices to prevent gully erosion when needed to complete a water disposal system;

(B) For the establishment of permanent forest cover on marginal or riparian lands;

(C) For the exclusion of domestic livestock grazing from existing woodlands on marginal or riparian soils;

(D) For a no-till practice for forage conversions;

(E) For grade stabilization structures that are greater than ten (10) years old when the principal pipe has failed;

(F) For a no-till practice to improve the vegetative cover of pasture and rangeland to provide continued erosion prevention; and

(G) For a practice to demonstrate benefits of a planned grazing system.]

(3) Funding Determination and Limits. It *[shall be]* **is** the responsibility and duty of the board of supervisors to determine the actual dollar amount of cost-sharing on individual applications. *[State cost-share rates shall not exceed the limits established in 10 CSR 70-5.040(1).]* In the event that the landowner wishes to construct or implement practices over and above the size or scope determined by a qualified technician to be of minimum and necessary need for soil and water conservation, the board shall provide cost-share assistance on only that part of the practice necessary for soil and water conservation purposes.

(4) Availability of Federal Funds. *[Applications for cost-sharing assistance may be approved by the district board of supervisors when it determines that federal funds are unavailable to that applicant for the proposed practice.]* State cost-sharing assistance *[also]*is available for practice units applied for but not approved by the federal program, if those additional units constitute a complete structure, conservation measure**,** or operation in and of themselves. State cost-sharing assistance may supplement federal cost-sharing on an individual practice*, [within limits set forth in section (3),]* and only upon practice components cost-shared by the federal program*[, when the estimated cost-share portion of the practice exceeds the national program allowable dollar figure from the federal program. Special area land treatment project areas approved by the commission are exempt from the provisions of this rule]*.

(5) Compliance with Applicable Law. In the installation of any eligible practices, the landowner *[solely shall be]* **is** responsible for assuring compliance with any applicable federal, state**,** or local laws, ordinances**,** and regulations. The landowner **is** also *[is solely]* responsible for obtaining all permits, licenses or other instruments of permission required before the installation of the proposed practice.

(6) Group Projects. Landowners may cooperate with other landowners in the event that the most appropriate solution to the **soil and water conservation** needs addressed *[in the Act]* requires eligible practices to be located on or across property lines of different landowners. In these cases, an agreement between or among cooperating landowners must be prepared by or on behalf of the group stipulating and providing for, but not limited to, the divisions of unshared costs, maintenance, such easements as necessary to accomplish the installation, operation**,** and maintenance of the practice and the sharing of rights and benefits over and above the public benefits which might accrue from the installation of the practice. This agreement and a**n** *[group]* **area** conservation plan *[shall]* **may** be submitted to the district(s) within which the land included in the plan**s** lies. Upon approval of the *[group]* **area** conservation plan by the district**(s)**, the individual landowners are eligible to apply for cost-sharing assistance under this rule. The *[group]* **area** conservation plan may serve in lieu of the individual landowner conservation plan**s** *[as stipulated in section (2)]*. All other requirements for application and cost-sharing assistance remain in effect.

(7) Special Projects. Upon notification *[to a district(s)]* of *[a fund availability]* **available funds** for special critical-needs projects *[so]* designated by the commission, the **district** board shall make all reasonable efforts to contact landowners *[of land]* within the special project area *[which lies within the district boundaries,]* to inform the**m** *[landowners]* of the *[availability of the]* **available** *[special]* cost-share funds and to encourage the landowners to cooperate in the special critical-needs projects. *[Each l]***L**andowner**s** within the project boundaries *[shall then be eligible to]* **may** apply for the special cost-shar*[ing]***e** assistance on practices specified as eligible by the commission *[in its project plan]*. *[Application shall be made at the local district office in the manner of application for general state cost- sharing assistance to landowners, but action on applications by the board as set forth in 10 CSR 70-5.050(2) shall not be taken unless applications from landowners covering seventy-five percent (75%) of the land to be treated are made. In special critical-needs project cooperation, the landowner requirement of a conservation plan as approved by the district, under section (2), is waived. All other landowner requirements and obligations here named shall remain in effect.]* Cooperation in these special projects is entirely voluntary *[on the part of the]* **for** landowner**s**.

(8) Termination Date. All applications shall specify a termination date *[which shall not exceed twelve (12) months from the date the landowner's application is approved by the board. In commission-approved SALT projects, the district board of supervisors may set the termination date to be anytime during the lifetime of the SALT project]* **for completion of the conservation practice**. Claims for payment received after the termination date shall not be honored unless an amendment for an extension is approved by the board. Amendments for extensions can be authorized for an adequate period of time determined by the board to be reasonable and fair to the landowner. *[An amendment for an extension must be approved prior to the termination date of the original application and only when the implementation or construction has begun on the practice.]*

(9) Application Amendments. A copy of *[any]* amendment**s** will be furnished to each party receiving a copy of the original application and the board shall approve each amendment before it *[shall]* become**s** effective. *[An amendment to a cost-share application shall not be appropriate in the event that the construction or implementation of a practice has begun, except as provided in subsections (10)(A), (C) and (F). An amendment to an application for cost-sharing assistance shall be appropriate for any of the following reasons:]* **The commission will provide guidance regarding appropriate reasons for amendments.**

[(A) To increase the quantities of eligible components needed on the practice;

(B) To comply with an amended conservation plan;

(C) To extend the termination date indicated on the original application consistent with section (9);

(D) To cancel the application or agreement by mutual consent;

(E) To increase the obligation to the landowner for the proposed practice; or

(F) To reflect the added costs to the landowner when physical conditions at the practice site which require design

changes are encountered.]

*AUTHORITY: sections 278.070.4**, 278.080.1, 278.080.5(8),** and 278.110.8, RSMo [1994 and 278.080.1 and 278.080.5(8), RSMo Supp. 1998] **2016**. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.*

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

PROPOSED AMENDMENT

10 CSR 70-5.030 Design, Layout and Construction of Proposed Practices; Operation and Maintenance. The commission is amending sections (1), (2), (3), and (6); deleting sections (4) and (5) and renumbering section (6). Proposed amendments will delete or update obsolete rule language in the Editor's Note and sections (1), (2), (3), and (6); delete sections (4) and (5) and language in sections (2) and (6) that are duplicative with commission policy (Cost-Share Handbook) and delete restrictive words in sections (2) and (6).

PURPOSE: This rule is being amended because it has not been revised since 1983 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-5.030 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

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

(1) Technical Specifications. **The commission shall rely on standards and** *[S]***specifications** for soil and water conservation practices *[set forth in the Soil Conservation Service Field Office Technical Guide are to be]* used **by the United States Department of Agriculture Natural Resources Conservation Service** as the basis for determining need and practicability of the proposed practice, *[for]* preparing plans and specifications, *[for]* designing and laying out the practices**,** and *[for]* certifying the proper installation of the practices. *[Specifications for additional soil and water conservation practices not set forth in the Soil Conservation Services Field Office Technical Guide and m]***M**odifications to *[those included in the technical guide]* **the standards and specifications** may be considered and authorized by the commission *[at the request of the district]*. Practice description and specification information will be *[on file]* **available** in the district office.

(2) Inspections and Certifications. A *[responsible]* **certified** technician shall inspect the work in progress to determine that **practice standards and** specifications are met. Following the installations, *[it will be the responsibility of]* the technician *[to]* **will** certify to the district that the practice was or was not properly installed. If the district does not receive a technician's certification that the practice was properly installed, it shall not approve any claim to the commission for payment regarding the practice. *[In the event that any technician responsible for complying with any portion of the rule is different from the technician who originally certified the feasibility of the practices in the original conservation plan, and if the technician is other than an individual employed for those purposes by the district or the Soil Conservation Service, the qualifications of this technician shall be established to the satisfaction of the board before proceeding any further with the processing of any claim for payment.]*

(3) Operation and Maintenance by Landowner. *[Except as provided in section (4), t]***T**he landowner shall be responsible for the operation and maintenance of all practices constructed with assistance from the Cost-Share Program and the landowner will be expected to maintain the *[same]* **practices** in good operating condition to assure their continued effectiveness *[for the purpose(s) for which they were installed]*.

[(4) Operation and Maintenance by the District. If within the specified life span of the practice the district determines that landowner operation and maintenance responsibilities would constitute an undue burden upon the landowner, the district may assume responsibility for all or a part of the operation and maintenance and, prior to and as a condition for approval of a claim for payment for cost-share funds, as a condition of the cost-share assistance agreement under section (5), shall require the landowner to provide the district with the necessary easement or other land rights necessary to perform the operation or maintenance.

(5) Cost-Share Assistance Agreement. As a condition for receiving any cost-share funds for eligible practices, the landowner, before submission of a claim for reimbursement, shall enter into an agreement of maintenance on forms supplied by the commission. The provisions of the agreement shall state; if the practice is removed, altered or modified so as to lessen its effectiveness, without prior approval of the district, for a period of ten (10) years or the expected life span of the practice, whichever is the lesser, after the date of receiving payment, the landowner or his/her heirs, assignees or other transferees, shall refund to the Cost-Share Program the prorated amount of the state cost-share payment previously received for the practice or portion of the practice which has been removed, altered or modified; and that if the district assumes maintenance responsibilities, right of access will be granted by the landowner. A copy of the agreement shall be recorded by the commission in the county where the land upon which the practices are constructed is located if the commission concurs with a board's determination that there is a need for recording.]

*[(6)]***(4)** Requests for Removal, Alteration, **or** Modification of Practices. *[A landowner may request t]***T**he **commission may grant a** district's *[approval of]* **request for** the removal, alteration or modification of *[the]* **a** practice at any time during the ten**-** (10**-**)*[-]* year or expected life span, whichever is less*[er]*, following payment of cost-share assistance. *[In determining whether to approve or*

disapprove the action, the district shall consider—]

[(A) The value of the practice in conserving soil and water resources;

(B) The extent to which the practice hinders the highest and best use of the land upon which the practice is located;

(C) Whether alternative soil and water conservation measures have been or are to be constructed or implemented; and

(D) The time remaining in the designed life of the practice.]

*AUTHORITY: sections 278.070, 278.080, and 278.110, RSMo [1986] **2016**. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expired Feb. 25, 2010. Amended: Filed Dec. 14, 1982, effective April 11, 1983. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.*

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

PROPOSED AMENDMENT

10 CSR 70-5.040 Cost-Share Rates and Reimbursement Procedures. The commission is amending sections (1), (2), (3), and (4). Proposed amendments will delete or update obsolete rule language in sections (1), (2), (3), and (4); delete applicable rule requirements and procedures in sections (3) and (4) that are duplicative with commission policy (District Operations Manual) and delete and replace restrictive words in sections (1) and (2).

PURPOSE: This rule is being amended because it has not been revised since 2009 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-2.020 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

(1) Cost-Share Rates. Cost-share **and incentive** rates *[shall not exceed seventy-five percent (75%) of the]* **are established by the commission and based on the** estimated 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.

(2) Eligible Costs. Eligible costs will be determined by the *[district and shall]* **commission to** include *[all]* necessary and reasonable costs incurred by the landowner in installing or *[applying]* **implementing** an approved practice. The costs **may** include**, but are not limited to,** machine hire or the *[costs of the]* use of *[his/her]* **the landowner's** own equipment, *[needed]* **necessary** materials delivered to and used at the site**,** and labor required to construct the practice.

(3) Documenting Costs. *[All authorized items or costs for which the landowner desires cost- sharing assistance shall be supported by receipts of payments from the vendor(s). Receipts of payments from the vendor(s) shall show the name of the vendor(s), the materials, labor or equipment used on the practice, the component(s) cost, the total amount paid for the component(s), the date payment was received and the vendor's verification of payment received. Should receipts include components which were not needed on the approved practice, the bill shall be adjusted to reflect the actual cost of minimum and necessary components. Costs for labor, materials or equipment incurred by the landowner or by the current farm operator when no vendor receipts for payment are obtainable should be listed on a certification worksheet showing the component(s) cost, amount or number of each component and the total amount for which payment is claimed.]* **The commission determines the supporting documentation necessary to approve cost-share payments.**

(4) Claim for Payment. **The landowner is eligible for payment** *[A]***a**fter the practice has been completed and certified by the *[responsible]* technician*[, the landowner shall complete a claim for payment on forms provided by the commission and available at the location where the application form was obtained. A copy of the certification worksheet of costs incurred by the landowner or the current farm operator and of the vendor(s) receipts, both required by section (3), shall be attached to the claim for payment before submission to the district. The landowner at the same time shall complete and sign the agreement form required by 10 CSR 70-5.030(5), a copy of which shall be submitted to the district for processing along with the claim for payment]* **and approved by the district board**.

*AUTHORITY: section 278.080, RSMo [Supp. 2007] **2016**. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.*

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

PROPOSED AMENDMENT

10 CSR 70-5.050 District Administration of the Cost-Share Program. The commission is amending sections (2), (4), and (9);

deleting sections (1), (3), (5), (7), and (8) and renumbering sections (2), (4), (6), and (9). Proposed amendments will delete and update rule language in sections (2), (4), and (9) and delete and replace restrictive words in sections (2) and (4).

PURPOSE: This rule is being amended because it has not been revised since 1992 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-5.050 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

[(1) Application. This rule shall apply only to districts which have entered into a Memorandum of Understanding with the commission agreeing to assist the commission in the administration of the Cost-Share Program and to applicants having active conservation plans as required by 10 CSR 70-5.010(1) as approved by the district and to eligible practices covered by the conservation plan.]

*[(2)]***(1) District** Board Action on Applications. The **district** board *[of supervisors]* shall review the cost-share assistance application and any amendments and *[shall]* approve or disapprove each application or amendment. The action shall be recorded in the official minutes of the district meeting and the landowners shall be notified of the action within *[ten (10)]* **thirty (30)** days. *[The board at this time also shall determine the amount of funding under 10 CSR 70-5.020(3).]* Special circumstances may arise where **district** board approval for cost-share assistance is needed before the next monthly **district** board meeting. In those cases, the **district** board shall establish specific criteria by which any **district** board member may approve that action. *[All those approvals shall be reviewed at the next board meeting and recorded in the official minutes of the district meeting.]* Applications for cost-share assistance may be approved by the **district** board only when there is a sufficient unobligated fund balance to provide the estimated cost-share amount *[based upon the actual cost information available to the district]*. The **district** board shall not approve any application for cost-share assistance on which the construction or implementation of projects or practices has begun.

[(3) Recordkeeping. The district shall maintain a record of funds obligated as applications for cost-share assistance are approved based upon estimated costs. A cost-share ledger will be kept current showing the balance of unobligated funds and other information as the commission determines is necessary to provide for proper documentation of all expenditures from the Cost-Share Program.]

*[(4)]***(2)** District Review of Claim for Payment. Upon completion of an *[approved]* **eligible** practice, the district shall review **and approve** the claim for payment *[prepared by the landowner in accordance with 10 CSR 70-5.040(4) and, if it finds that the practice was installed properly, that all other conditions have been satisfied and that the claim has been completed properly and is accompanied by all required supporting documentation, shall approve the claim for payment]*. If the district determines that *[the claim is prepared improperly, or that other]* deficiencies exist, *[it]* **the district** shall *[so]* notify the landowner and *[shall]* provide the landowner with a reasonable opportunity to correct the deficiencies and *[to]* resubmit the claim for payment.

[(5) District Assistance to Landowner. The district shall provide assistance as it considers appropriate to the landowner in the completion of necessary forms and any other Cost-Share Program matters.]

*[(6)]***(3)** Filing System. To provide for efficient processing of requests for cost-sharing assistance and for maintenance of necessary documentation of matters relating to the administration of the Cost-Share Program, the district shall develop and maintain with the assistance of the commission, a filing system which includes copies of all forms completed by the landowner and all other information considered relevant to the construction of the eligible practices and to the cost-sharing assistance provided. The files shall be available for inspection by the personnel of the commission and by representatives of the state auditor's office during normal business hours of the district.

[(7) Quarterly Reports. The district, no later than the tenth day of October, January, April and July of each state fiscal year, shall submit a report to the commission indicating the status of cost-share funds as shown on each district cost-share ledger required by section (3) at the close of the last day of the preceding month.

(8) Delegation of Responsibilities by the Board. The commission shall be notified in writing of any delegation of responsibilities. The board of supervisors may delegate any of the authorities and responsibilities assigned to it by these rules to a member or subcommittee of the board, except—

(A) Establishment of preferred practices in accordance with 10 CSR 70-5.020(1);

(B) Establishment of cost-sharing dollar amounts under 10 CSR 70-5.020(3);

(C) Application amendment determination as specified in 10 CSR 70-5.030(6); and

(D) Application and claim for payment approval in accordance with this rule.]

*[(9)]***(4)** Regardless of the source of funding, each district board *[of supervisors]* is authorized to deny any application for participation in any program generally available through the district which is administered by the State Soil and Water Districts *[C]***c**ommission. The district board *[of supervisors]* shall notify the applicant of the denial by certified mail, return receipt requested. The applicant may request the Soil and Water Districts Commission to conduct a review of his/her application. The request must be in writing and be directed to the Soil and Water Districts Commission, P*[.]*O*[.]* Box 176, Jefferson City, MO 65102-0176. The request must be received by the commission no later than thirty (30) days from the date the applicant received the denial letter from the district board. The applicant, upon request, may appear before the commission in person, by a representative**,** or in writing. The commission shall schedule the review of the application at a regularly scheduled meeting of the commission within one hundred twenty (120) days of the district board's denial. The commission shall give the applicant at least twenty (20) days' notice by letter of the regularly scheduled meeting when the commission will review the application.

*AUTHORITY: sections 278.070, 278.080, and 278.110, RSMo [1986] **2016**. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, Jefferson City, MO 6510*2*. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public meeting is*

scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

10 CSR 70-5.060 Commission Administration of the Cost-Share Program. The commission is amending sections (1), (2), (4), (5), and (7); deleting sections (3) and (6); adding a new section (4) and renumbering sections (4), (5), (6), and (7) that follow the new section (4). Proposed amendments will delete or update obsolete rule language in sections (1), (2), (4), and (5) and delete and replace restrictive words in sections (1), (2), (4), (5), and (7).

PURPOSE: This rule is being amended because it has not been revised since 1996 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-5.060 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

(1) Forms. The commission shall *[prepare]* **develop** and make available to participating districts, *[sufficient copies of all]* forms necessary for district administration**,** and *[shall]* further prepare and keep updated *[a handbook]* **guidance** for district use in assisting in the administration of the Cost-Share Program.

(2) Commission Review of Claims for Payment. Upon receipt from a district-approved claim for payment, a commission representative *[shall]* reviews the claim and the supporting documentation which is attached. If the claim is determined to be complete and properly documented, *[the commission shall prepare a voucher for transmittal to the]* **payment will be made by the** Office of Administration *[for preparation of a warrant payable]* to the landowner.

[(3) Payment to Landowner and Recording Agreement. Upon receipt of the warrant from the Office of Administration, the commission shall transmit the same by mail to the landowner. The district shall be notified monthly of any transmission at which time the commission shall complete all necessary portions of the cost-sharing assistance agreement prepared by the landowner at the time the claim for payment was prepared. Costs incurred in the recording and indexing of the agreements shall be paid by the commission.]

(3) Variance Requests. The commission may grant individual variances upon presentation of adequate proof that compliance with sections 278.060 to 278.300, RSMo or any rule or regulation, standard, requirement, limitation, or order of the commission will have an arbitrary and unreasonable impact on landowners participating in soil and water conservation eligible practices. In determining under what conditions and to what extent a variance may be granted, the commission has wide discretion in weighing the equities involved as well as the advantages and disadvantages of approving or disapproving a variance request.

(A) The variance request shall—

1. Be in writing;

2. Be filed with the program director of the Soil and Water Conservation Program; and

3. Specify the reasons a variance should be granted by the commission.

(B) The burden is placed on the applicant of a variance to show the inequities if the variance is not granted.

(C) The program director shall promptly investigate the application and make a recommendation to the commission as to whether the variance should be granted or denied.

(4) Incomplete or Inaccurate Claims for Payments. *[If, in reviewing the claim for payment, the commission or its agent determines that the information contained in the claim is incomplete or inaccurate, that an error exists in the final computations or that proper documentation has not been supplied, it shall notify the district of the deficiency. The district then shall request the landowner to complete a claim for payment and if necessary a new cost-sharing assistance agreement required by 10 CSR 70-5.030(5).]* No payment will be authorized until the commission has determined that the claim for payment and necessary supporting documentations are complete and accurate *[in all respects. Cost- sharing assistance agreements shall not be recorded until the payment in fact has been authorized by the commission and received by the landowner]*.

(5) Violations of Cost-Sharing Assistance Agreement. In the event the commission is notified of an alleged violation of the cost-sharing assistance agreement, a representative of the commission, or a representative of the district, or both, shall investigate the alleged violation and report the results of the investigation to the commission. If, following the investigation, it appears as though a violation has occurred, the district board of supervisors shall notify the landowner by certified mail, return receipt requested, and *[shall]* make demand for repayment of the appropriate amount to the state Cost-Share Program within thirty (30) days after receipt of the demand for repayment. Within that thirty**-** (30**-**)*[-]* day period, the landowner may request the commission review the demand for repayment. The request for a review must be in writing. The review shall be conducted at a regularly scheduled commission meeting, allowing adequate opportunity for the landowner to present arguments in support of the claim. The landowner's arguments may be presented by the landowner, by a representative**,** or in writing. If, following the review, the commission determines that no violation has occurred or that extenuating circumstances justify the landowner's position, the demand for repayment shall be withdrawn and the commission shall *[so]* notify the landowner of its decision. If, however, following the review, the commission determines the violation did occur, it shall *[so]* notify the landowner by certified mail, return receipt requested, and *[shall]* renew the demand for repayment. If the repayment is not received within thirty (30) days of receipt of the commission's request for repayment or if all deficiencies are not corrected at the landowner's expense within the time specified*[,]* by the commission, the commission may refer the matter to the Office of the Attorney General for recovery of the state cost-share funds.

[(6) Report to Districts. The commission shall prepare on a monthly basis a report to each participating district indicating the payments which have been made from the Cost-Share Program during the preceding month and any other information determined by the commission to be of value to the districts regarding the administration of the program.]

*[(7)]***(6)** New Practices. The commission *[shall have]* **has the** authority to conduct a pilot project for the purpose of testing development and implementation of new cost-share practices appropriate for future soil and water conservation resource needs. A pilot project will be conducted for a specified period of time in a limited area determined by the commission.

*AUTHORITY: sections 278.070(4), 278.080(8)**,** and 278.110.8, RSMo [Supp. 1995] **2016**. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 E. Elm St., Jefferson City, MO 65101.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 6—Tax Levy Referendums

PROPOSED AMENDMENT

10 CSR 70-6.010 Watershed *[Subdistrict] District* **Tax Levy Referendums**. The commission is amending the name of 10 CSR 70-6.010 and amending sections (1)–(7). Proposed amendments will delete or update obsolete rule language in the rule name, purpose statement, and sections (1)–(7).

PURPOSE: This rule is being amended because it has not been revised since 1984 and is not current with state statutes or commission policy. The proposed amendments to 10 CSR 70-6.010 were identified during the Red Tape Reduction review pursuant to Executive Order 17-03.

(1) The *[governing body or the]* trustees of the *[subdistrict when acting with the approval of the governing body as provided in section 278.240, RSMo, is]* **watershed district are** responsible for conducting referendums *[under the rules and procedures developed by the Soil and Water Districts Commission]* **as outlined below**.

(2) Watershed *[sub]*district referendums for tax levies should be held separately and distinctly from soil and water conservation district (SWCD) elections for district supervisors, but may be held in conjunction with watershed **district** trustee elections.

(3) Each landowner is eligible to vote and may cast *[his/her]* **their** vote at a*[ny one of the]* **designated** polling place*[s]*. If *[it is impossible for any]* **a** landowner **is unable** to personally cast *[his/her eligible]* **their** vote, *[that person]* **they** may give power of attorney to a taxpaying citizen of the *[subdistrict]* **watershed district** to represent *[him/her]* **them**. The power of attorney authorization form must be given to the referendum judges.

(4) The *[subdistrict's governing body, or the]* **watershed district** trustees *[of the subdistrict when acting with the approval of the governing body as provided in section 278.240, RSMo,]* will—

(A) Provide legal notice of the referendum once each week for two (2) consecutive weeks immediately preceding the week of the election in one (1) newspaper of general circulation in the watershed *[sub]*district; the last notice to be published at least ten (10) days prior to the referendum date. If sufficient need for notices in more than one (1) newspaper can be shown, the commission may approve, in advance, additional publications;

(B) Select three (3) judges who will agree to conduct the referendum for each polling place. The*[y]* **judges** must be landowners within the *[subdistrict]* **watershed district**;

(D) Prepare ballots, tally sheets, voter registration sheets**,** and an envelope for storing cast ballots*[;]* and deliver them to the judges. Ballots shall state the amount of the proposed tax and whether it is an organization tax or a tax for construction, repair, alteration, maintenance**,** and operation;

(5) The referendum judges will—

(A) Be present during the polling period and for counting the votes. If any election judge is not present at the time for opening the polls, those judges present shall select a landowner of the *[subdistrict]* **watershed district** to serve and they shall give this person the necessary instructions. A majority of the election judges shall determine, in accordance with section (3), the qualifications of a voter as presented at the polls;

(D) After the polls are closed, count the ballots, record on the tally sheet the number of "Yes" and "No" votes**,** and certify the results. A majority vote shall determine the issue;

(F) *[Hand over]* **Provide** the sealed ballots to the *[governing body (]* **watershed district** or one (1) of the SWCD boards as directed by the *[governing body)]* **watershed district** for proper storage. Ballots shall be safely preserved for twelve (12) months.

(6) The *[governing body,]* **watershed district** or one (1) of the SWCD*[s]* **boards** as directed by the *[governing body]* **watershed district**, may request reimbursement for the cost of legal notices from the Soil and Water Districts Commission. To request reimbursement, send to the Soil and Water Conservation Program *[Office]* an original and two (2) copies of the *[A]***a**ffidavit of *[P]***p**ublication, an original and one (1) copy of the paid receipt, and an original and two (2) copies of the *[R]***r**equisition for *[E]***e**lection *[E]***e**xpense *[R]***r**eimbursement form. Other expenses incurred in administering referendums are the responsibility of the SWCD*[(s)]*. *[(]*These expenses may be included as items reimbursable through the SWCD's normal *[A]***a**dministrative *[E]***e**xpense *[A]***a**llocation.*[)]*

(7) The *[governing body (]* **watershed district** or one (1) of the SWCD boards as directed by the *[governing body)]* **watershed district,** will complete and sign two (2) copies of the *[R]***r**eport and *[C]***c**ertification of *[T]***t**ax *[L]***l**evy *[R]***r**eferendum form. One (1) copy shall be mailed to the Soil and Water Conservation Program. One (1) copy and a tally sheet signed by the judges shall be kept permanently *[for]* **in** the SWCD files.

AUTHORITY: section 278.210, RSMo [1986] ***2016****. Original rule filed June 15, 1984, effective Oct. 11, 1984. Amended: Filed May 23, 2018.*

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 MEETING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Soil and Water Districts Commission, PO Box 176, 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 meeting is scheduled for August 2, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

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

PROPOSED RESCISSION

11 CSR 45-7.090 Dock Site Commission Facility. This rule established requirements for a commission dock site facility.

PURPOSE: This rule is being rescinded because the excursion gambling boats no longer cruise. Therefore, there is no need to require a separate dock site facility.

AUTHORITY: sections 313.004, 313.800, 313.805 and 313.824, RSMo 1994. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed June 2, 1995, effective Dec. 30, 1995. Rescinded: Filed May 31, 2018.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for Tuesday, July 31, 2018, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

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

PROPOSED AMENDMENT

11 CSR 45-10.020 Licensee's and Applicant's Duty to Disclose Changes in Information. The commission is amending section (4).

PURPOSE: This amendment modifies the meaning of "material change."

(4) For the purposes of this rule, "material change" shall mean any change in personal identification or residence information, such as name, address, and phone number; information required in section 313.847, RSMo; or other information that might affect an applicant or licensee's suitability to hold a gaming license, including, but not limited to, arrests, convictions, and guilty pleas, disciplinary actions or license denials in other jurisdiction(s), *[significant changes in financial condition,]* or relationships or associations with persons having criminal records or notorious reputations.

*AUTHORITY: sections 313.004, [RSMo 2000, and sections] 313.800, 313.805, and 313.807, RSMo [Supp. 2013] **2016**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 31, 2018.*

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 Tuesday, July 31, 2018, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 40—Fantasy Sports Contests

PROPOSED AMENDMENT

11 CSR 45-40.060 Cash Reserve and Segregated Account Requirements. The commission is amending section (2).

PURPOSE: This amendment removes the option of using a special purpose segregated account to hold player's funds held by Missouri residents.

(2) Funds held in player accounts of Missouri residents shall be protected as set forth herein. A fantasy sports operator shall maintain a reserve in the form of cash, cash equivalents, or a combination thereof to protect player funds *[in one (1) of the following ways:]***.**

[(A) Cash Reserve.]

*[1.]***(A)** The amount of the reserve shall be equal to, at a minimum, the sum of all registered players' funds held in player accounts of Missouri residents.

*[2.]***(B)** The reserve agreements must reasonably protect the reserve against claims of the operator's creditors other than the authorized players for whose benefit and protection the reserve is established, and must provide the following:

*[A.]***1.** The reserve shall be established and held in trust for the benefit and protection of authorized players to the extent the licensed operator holds money in player accounts for players;

*[B.]***2.** The reserve must not be released, in whole or in part, except upon written instruction or approval of the commission. The reserve must be available within ninety (90) days of written demand or written instruction. If the reserve is released to the commission, the commission may interplead the funds in the circuit court of Cole County for distribution to the authorized players for whose protection and benefit the account was established and to the other such persons as the court determines are entitled thereto, or shall take such other steps as necessary to effect the proper distribution of the funds, or may do both;

*[C.]***3.** The licensed operator may receive income accruing on the reserve, without obtaining permission from the commission; and

*[D.]***4.** The licensed operator has no interest or title to the reserve.

*[3.]***(C)** The reserve must be held or issued by a federally insured financial institution and must be established pursuant to a written agreement between the licensed operator and the financial institution.

*[4.]***(D)** The proposed reserve arrangement is not effective for purposes of complying with section 313.930.3(4), RSMo, until the commission's written approval has been obtained.

*[5.]***(E)** The reserve arrangement agreements may be amended only with the prior written approval of the commission*[; and]***.**

[(B) Special purpose segregated account with a separate corporate entity.

1. A fantasy sports contest operator may establish a special purpose segregated account that is]

(F) The account shall be maintained and controlled by a properly constituted corporate entity that is not the fantasy sports contest operator and whose governing board includes one (1) or more corporate directors who are independent of the fantasy sports contest operator and of any corporation related to or controlled by the fantasy sports

contest operator. **The corporate entity must meet the following requirements:**

[2. The special purpose segregated account with a separate corporate entity must hold, at a minimum, the sum of all authorized player funds held in player accounts of Missouri residents for use in fantasy sports contests.

3. The special purpose segregated account must reasonably protect the funds against claims of the operator's creditors other than the authorized players for whose benefit and protection the special purpose segregated fund is established, and must provide that:

A. The segregated account is established and held for the benefit and protection of authorized players;

B. The fantasy sports contest operator may receive income accruing on the segregated account. However, the fantasy sports contest operator has no interest in or title to the segregated account; and

C. The funds in the segregated account held for the benefit of Missouri residents may only be distributed for the following:

(I) For payment to players upon completion of fantasy sports contests or otherwise for the reconciliation of player accounts;

(II) For income earned on the account, to the fantasy sports contest operator;

(III) To the Missouri Gaming Commission in the event that the fantasy sports operator's license expires, is surrendered, or is otherwise revoked. The Missouri Gaming Commission may interplead the funds in the Cole County Circuit Court for distribution to the authorized players for whose protection and benefit the account was established and to other such persons as the court determines are entitled thereto, or shall take such other steps as necessary to effect the proper distribution of the funds, or may do both; or

(IV) As authorized in writing in advance by any agreement approved by the Missouri Gaming Commission.]

*[4.]***1.** The corporate entity must require a unanimous vote of all corporate directors to file bankruptcy*[.]***;**

*[5.]***2.** The corporate entity must obtain permission from the Missouri Gaming Commission prior to filing bankruptcy or entering into receivership*[.]***;**

*[6.]***3.** The corporate entity must have articles of incorporation that prohibit commingling of funds with that of the fantasy sports contest operator except as necessary to reconcile the accounts of players with sums owed by those players to the fantasy sports contest operator*[.]***;**

*[7.]***4**. The corporate entity must be restricted from incurring debt other than to fantasy sports players pursuant to the rules that govern their accounts for contests*[.]***;**

*[8.]***5.** The corporate entity must be restricted from taking on obligations of the fantasy sports contest operator other than obligations to players pursuant to the rules that govern their accounts for contests*[.]***; and**

*[9.]***6.** The corporate entity must be prohibited from dissolving, merging, or consolidating with another company without the written approval of the Missouri Gaming Commission while there are unsatisfied obligations to fantasy sports contest players.

AUTHORITY: sections 313.915, 313.950, and 313.955, RSMo 2016. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective March 30, 2017. Amended: Filed May 31, 2018.

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 Tuesday, July 31, 2018, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2015—Acupuncturist Advisory Committee
Chapter 1—General Rules

PROPOSED AMENDMENT

20 CSR 2015-1.010 *[Public Information,]* **Complaint Handling and Disposition**. The committee is amending the title, deleting sections (1), (2), (3), (4), (8), (9), and (10) and amending and renumbering the remaining sections.

PURPOSE: This amendment removes information on public records since it is addressed in statute and clarifies the complaint handling process.

[(1) All public records of the Missouri Acupuncturist Advisory Committee shall be open for inspection and copying by any member of the general public during normal business hours (8 a.m. to 5 p.m. Monday through Friday, holidays excepted) except for those records closed pursuant to section 610.021, RSMo.

(2) The State Board of Chiropractic Examiners establishes the executive director of the board as custodian of the advisory committee records as required by section 610.023, RSMo. The executive director is responsible for maintaining advisory committee records of meeting proceedings and responding to requests for access to public records.

(3) The Acupuncturist Advisory Committee will receive and process each complaint made against any licensee, applicant or unlicensed individual or entity, in which the complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of sections 324.475 to 324.499, RSMo. Any member of the public or the profession, or any federal, state or local official may make and file a complaint with the Acupuncturist Advisory Committee. Complaints will be received from sources both within and without Missouri and processed in the same manner as those originating within Missouri. No member of the Acupuncturist Advisory Committee may file a complaint with the board while serving in that capacity, unless that member is excused from further deliberation or activity concerning the matters alleged within that complaint. The executive director or any division staff member may file a complaint pursuant to this rule in the same manner as any member of the public.

(4) Complaints shall be mailed or delivered to the following address: Acupuncturist Advisory Committee, PO Box 672, Jefferson City, MO 65102. Complaints may be based upon personal knowledge or beliefs based on information received from other sources.]

*[(5)]***(1)** All complaints shall be made in writing **addressed to the Missouri Acupuncture Advisory Committee, 3605 Missouri Boulevard, PO Box 1335, Jefferson City, MO 65102** and *[shall]* fully identify the complainant by name and address. Verbal or telephone communications will not be considered or processed as complaints. The person making these communications will be asked to file a written statement. **No member of the Advisory Committee for Acupuncturists may file a complaint with the advisory committee while holding that office, unless that member is excused from further advisory committee deliberation or activity concerning the matters alleged within that complaint. Any division staff member or the advisory committee may file a complaint pursuant to this rule in the same manner as any member of the public.**

*[(6)]***(2)** Upon receipt of a complaint in proper form, the *[division,]* board*[,]* or advisory committee may investigate the actions of the licensee, applicant, registrant**,** or unlicensed individual or entity against whom the complaint is made. *[In conducting an investigation, the division/board, in its discretion, may request the licensee, applicant, registrant or unlicensed individual or entity under investigation to answer the charges made against him/her in writing and to produce relevant documentary evidence and may request him/her to appear before it.]* **Each complaint received under this rule shall be acknowledged in writing and the complainant be notified of the ultimate disposition of the complaint.**

*[(7)]***(3)** The advisory committee will maintain each complaint received under this rule. The complaint file will contain a record of each complainant's name and address; subject(s) of the complaint; the date each complaint is received by the *[division]* **advisory committee**; a brief statement of the complaint, including the name of any person injured or victimized by the alleged acts or practices; and the ultimate disposition of the complaint. *[This complaint file shall be a closed record of the division.]*

[(8) Each complaint received under this rule shall be acknowledged in writing. The complainant shall be notified of the ultimate disposition of the complaint.

(9) This rule shall not be deemed to limit the division, board or advisory committee authority to file a complaint with the Administrative Hearing Commission (AHC) charging a licensee with any actionable conduct or violation. The complaint filed by the board need not be limited to the acts charged in a public complaint.

(10) The division, board and advisory committee interpret this rule, which is required by law, to exist for the benefit of those members of the public who submit complaints to the division/board. This rule does not create any cause of action for licensees against whom the division/board has instituted or may institute administrative or judicial proceedings concerning possible violations of the provisions of sections 324.475 through 324.499, RSMo.]

AUTHORITY: sections 324.481, 324.496, ***and*** *324.499, [620.010.14(7) and 620.010.15(6),] RSMo [2000]* ***2016****. This rule originally filed as 4 CSR 15-1.010. Original rule filed July 24, 2001, effective Feb. 28, 2002. Moved to 20 CSR 2015-1.010, effective Aug. 28, 2006. Amended: Filed May 30, 2018.*

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 Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735, or via email at acupuncture@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2015—Acupuncturist Advisory Committee
Chapter 1—General Rules

PROPOSED AMENDMENT

20 CSR 2015-1.020 Acupuncturist Credentials, Name and Address Changes. The committee is amending the purpose statement, sections (1) and (3), deleting sections (2) and (4), and renumbering as necessary.

PURPOSE: This amendment clarifies the procedure for name and address changes.

PURPOSE: This rule specifies the title [that shall be] used by a licensed acupuncturist and requirements for maintaining current licensee information.

(1) Any person licensed as an acupuncturist shall use the abbreviations L.AC. or the licensure title Licensed Acupuncturist after the licensee's name **and ensure that the license bears the current legal name of the licensee**.

[(2) All individuals licensed pursuant to this chapter shall ensure that the license bears the current legal name of that licensee.]

*[(3)]***(2)** A licensee whose name **or address** has changed shall, within thirty (30) days of such change:

(A) Notify the *[board in writing of the change and provide a copy of the appropriate document indicating the]* **advisory committee via regular mail at PO Box 1335, Jefferson City, MO 65102, fax at 573/751/0735 or email at acupuncture@pr.mo.gov. A name change requires a copy of the document authorizing the name** change; and

(B) Destroy the license bearing the former name.

[(4) A licensee whose address and/or telephone number has changed from that printed on the license shall inform the advisory committee, in writing, within thirty (30) days of the effective date of the change.]

*[(5)]***(3)** A licensed acupuncturist shall use only those educational credentials in association with the license that have been earned at an acceptable educational institution as defined in 20 CSR 2015-4.020 and that are related to acupuncture.

AUTHORITY: sections 324.481 and 324.487, RSMo [2000] ***2016****. This rule originally filed as 4 CSR 15-1.020. Original rule filed July 24, 2001, effective Feb. 28, 2002. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed May 30, 2018.*

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 Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735, or via email at acupuncture@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2015—Acupuncturist Advisory Committee
Chapter 1—General Rules

PROPOSED AMENDMENT

20 CSR 2015-1.030 Fees. The committee is adding new subsection (3)(E).

PURPOSE: This amendment adds a late renewal fee.

(3) The fees are established as follows:

(E) Late Renewal Fee	**$ 50.00**

*AUTHORITY: sections 324.481, 324.487, 324.490, and 324.493, RSMo 2016. This rule originally filed as 4 CSR 15-1.030. Original rule filed July 24, 2001, effective Feb. 28, 2002. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

PUBLIC COST: This proposed amendment will increase revenue for the Acupuncturist Advisory Committee by one hundred dollars ($100) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities one hundred dollars ($100) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735, or via email at acupuncture@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2015 - Acupuncturist Advisory Committee
Chapter 1 - General Rules
Proposed Amendment - 20 CSR 2015-1.030 Fees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Revenue	
Acupuncturist Advisory Committee		**$100**
	Estimated Biennial Increase in Revenue for the Life of the Rule	**$100**

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The figures reported above are based on committee projections.
2. The committee utilizes a rolling five year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five-year analysis is based on the projected revenue, expenses, and number of licensees. Based on the committee's recent five year analysis, the committee voted on to add a $50 late renewal fee.
3. It is anticipated that the total biennial increase will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2015 - Acupuncturist Advisory Committee
Chapter 1 - General Rules
Proposed Amendment - 20 CSR 2015-1.030 Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the amendment by affected entities:
2	Late Renewal Fee (Fee @ $50)	$100
	Estimated Biennial Cost of Compliance for the Life of the Rule	**$100**

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The figures reported above are based on committee projections.
2. It is anticipated that the total costs will recur for the life of the rule, may vary with inflation and are expected to increase/decrease at the rate projected by the Legislative Oversight Committee.

Note: The committee is statutorily obligated to enforce and administer the provisions of sections 324.475 to 324.499, RSMo. Pursuant to section 324.481, RSMo, the committee shall by rule and regulation set the amount of fees authorized by sections 324.475 to 324.499, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions of sections 324.475 to 324.499, RSMo.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2015—Acupuncturist Advisory Committee
Chapter 2—Acupuncturist Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2015-2.010 Application for Licensure. The committee is amending sections (2), (3), and (4) and deleting sections (5) and (6).

PURPOSE: This amendment clarifies the application process.

(2) The application shall be *[typewritten or]* printed in black ink, signed, notarized, and accompanied by all documents required by the advisory committee and the application fee as defined in 20 CSR 2015-1.030(3)(A). Documentation *[required to be submitted with the application shall]* includes**,** *[but]* **and** is not limited to, the following:

(A) Two (2) sets of fingerprints *[and the applicable fee as defined in 20 CSR 2015-1.030(3)(C)]***. Any fees due for a fingerprint background check shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor(s)**;

(3) An applicant for licensure based upon certification by the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM) shall be currently certified as a diplomate in acupuncture by NCCAOM. The applicant *[shall be]* **is** responsible for authorizing NCCAOM to verify certification *[to]* **and notify** the advisory committee *[and verification of certification shall be sent to the advisory committee by NCCAOM]*.

(4) A person applying for licensure based upon current licensure, certification**,** or registration in another state or jurisdiction of the United States shall comply with sections (1) and (2) of this rule and *[shall]* submit the following:

[(A) A copy of the state's or jurisdiction of the United States' laws, rules and regulations pertaining to the regulation of acupuncture; and]

*[(B)]***(A)** Verification of licensure, certification**,** or registration as an acupuncturist to be provided directly to the advisory committee office from the state*[,]* or jurisdiction of the United States regulatory agency*[,]* that shall include:

1. Status of the applicant's license;
2. License original issue date and if there has been any lapse in the license;
3. License expiration date; and
4. Information regarding any complaints, investigations**,** or disciplinary action.

[(5) The advisory committee shall review the information submitted for licensure based on licensure, certification or registration in another state or jurisdiction of the United States to determine equivalency with Missouri requirements for acupuncture licensure.

(6) After review of an application by the advisory committee, the applicant will be informed in writing concerning the results of the review.]

*AUTHORITY: sections 324.481, 324.487, and 324.493, RSMo [2000] **2016**. This rule originally filed as 4 CSR 15-2.010. Original rule filed July 24, 2001, effective Feb. 28, 2002. Moved to 20 CSR 2015-2.010, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008. Amended: Filed May 30, 2018.*

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 Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735, or via email at acupuncture@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2015—Acupuncturist Advisory Committee
Chapter 2—Acupuncturist Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2015-2.020 License Renewal, Restoration and Continuing Education. The committee is amending sections (2) and (3) and deleting section (5).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions and remove duplicative language found in statute.

(2) Receipt of the renewal form and fee postmarked after the expiration date of the license shall cause the license to become not current and a licensee who continues to practice without a valid license *[shall be deemed to be]* **is** practicing in violation of sections 324.475 to 324.499, RSMo and subject to the penalties contained therein.

(3) Prior to the expiration date of the license and as a condition of the license renewal, a licensed acupuncturist shall complete thirty (30) hours of continuing education within the two**-** (2-)*[-]* year licensure period. Continuing education shall be related to the practice of acupuncture and include universal precautions/infection control and cardiopulmonary resuscitation (CPR) certification. For the first year of licensure continuing education hours *[shall]* **are** not *[be]* required.

[(5) Violation of any provision of this rule shall be grounds for discipline in accordance with section 324.496, RSMo.]

*AUTHORITY: sections 324.481, 324.490, 324.493, and 324.496, RSMo [2000] **2016**. This rule originally filed as 4 CSR 15-2.020. Original rule filed July 24, 2001, effective Feb. 28, 2002. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

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 Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735, or via email at acupuncture@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2015—Acupuncturist Advisory Committee
Chapter 3—Standards of Practice, Code of Ethics, Professional Conduct

PROPOSED AMENDMENT

20 CSR 2015-3.010 Standards of Practice. The committee is amending sections (2), (4), (5), (7), (8), (9), (10), and (11).

PURPOSE: This amendment clarifies the standards of practice.

(2) Each acupuncturist shall:

(F) Update patient records at each session. Such updated patient record information shall include, *[but shall]* **and** not be limited to**,** the following:

1. Changes or additions regarding patient assessment;
2. Date and type of acupuncture service provided;
3. The signature of the acupuncturist and**,** when applicable**,** the name of the detox technician or acupuncture trainee that provided the acupuncture service;

(4) For the purpose of this rule, *[but not necessarily for other legal purposes,]* an acupuncturist shall maintain patient records for a minimum of five (5) years after the date of service is rendered, or not less than the time required by other applicable **laws or** regulations, if that time is longer than five (5) years.

(5) If a licensed acupuncturist discontinues practice in Missouri, the licensee shall notify the patient in writing at least thirty (30) days in advance of discontinuing practice that the patient records *[shall be made]* **are** available to either the patient or another licensed acupuncturist of the patient's choosing. The *[board]* **advisory committee** may waive the thirty**-** (30**-**)*[-]* day requirement if the licensee can make a showing of good cause for failing to comply.

(7) Acupuncturists, auricular detox technicians, and acupuncturist trainees under the supervision of a licensed acupuncturist shall follow the standards for Clean Needle Technique (CNT) as published by the National Acupuncture Foundation in effect at the time the acupuncture service is performed, and *[shall]* follow universal precautions.

(8) All disposable needles shall be disposed of immediately after use and placed in a biohazard container *[as required by]* **pursuant to** the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA).

(9) When reusable needles are used, a basic, double sterilization procedure protocol shall be utilized. Specific procedures of the protocol are outlined in the *Clean Needle Technique Manual* published by the National Acupuncture Foundation. *[The procedures include, but are not limited to the following:]*

[(A) Immediately after each use, the reusable needle shall be stored in a container designated for contaminated needles. Initial sterilization may be obtained by using a chemical sterilant;

(B) After the first sterilization, the needle shall be soaked in a chemical disinfectant as defined in section (11) of this rule; and

(C) Final sterilization procedures shall conform to one of the following:

1. Pressurized steam bath, such as an autoclave, at a required two hundred fifty degrees Fahrenheit (250°F), at fifteen (15) pounds pressure for thirty (30) minutes. The pressure must be released quickly at the end of the sterilization cycle; or

2. Dry heat sterilization at a required three hundred thirty-eight degrees Fahrenheit (338°F) for two (2) hours.

(10) Glass bead devices, boiling water, alcohol and pressure cookers shall not be acceptable forms of sterilization.]

*[(11)]***(10)** After each patient, *[a chemical disinfectant]* **an antibacterial product** shall be used on all equipment that does not penetrate the skin, come into direct contact with needles, or is made of rubber or plastic. *[Chemical disinfectants include, but are not limited to:]*

[(A) Chlorine-based agents, such as bleach;

(B) Aqueous solution of two percent (2%) glutaraldehyde;

(C) Seventy percent (70%) ethyl or isopropyl alcohol.]

AUTHORITY: sections 324.481 and 324.496, RSMo [2000] ***2016****. This rule originally filed as 4 CSR 15-3.010. Original rule filed July 24, 2001, effective Feb. 28, 2002. Amended: Filed March 15, 2004, effective Sept. 30, 2004. Amended: Filed Feb. 15, 2005, effective Aug. 30, 2005. Moved to 20 CSR 2015-3.010, effective Aug. 28, 2006. Amended: Filed May 30, 2018.*

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 Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735, or via email at acupuncture@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2015—Acupuncturist Advisory Committee
Chapter 3—Standards of Practice, Code of Ethics, Professional Conduct

PROPOSED AMENDMENT

20 CSR 2015-3.020 Code of Ethics. The committee is amending subsections (1)(E), (1)(H), (2)(C), (2)(E) and deleting section (3).

PURPOSE: This amendment clarifies the code of ethics.

(1) All applicants and licensees shall*[:]***—**

(E) When conducting research *[the acupuncturist shall]***,** comply with federal, state**,** and local laws or rules and applicable standards of ethical procedures regarding research with human subjects;

(H) Within the limits of the law, *[an acupuncturist shall]* report to the advisory committee all knowledge pertaining to known or suspected violations of the laws and regulations governing the practice of acupuncture *[that is not confidential and/or any other applicable state or federal laws and rules. The acupuncturist shall cooperate with any investigation or proceeding]*.

(2) An acupuncturist shall not*[:]***—**

(C) Exploit a patient/client, detox technician**,** or trainee for the purpose of financial gain. For the purpose of this rule exploitation *[shall be]* **is** defined as any relationship between the acupuncturist,

patient/client, technician, or trainee that may cause harm to the patient/client, technician**,** or trainee;

(E) Engage in or exercise influence concerning sexual activity with a patient, trainee(s)**,** or detox technician during an ongoing professional relationship with such person or within six (6) months after termination of such professional relationship:

1. For the purpose of this rule sexual activity *[shall include but]* **includes and is** not *[be]* limited to kissing, touching, caressing by any person or between persons that is intended to erotically stimulate either person, or which is likely to cause such stimulation and includes sexual intercourse, sodomy, fellatio, cunnilingus, masturbation, oral copulation, and penetrating the anal or vaginal opening with anything. Sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm**,** or ejaculation has occurred. For the purpose of this rule, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal.

[(3) Failure of an applicant to adhere to the code of ethics constitutes unprofessional conduct and may be grounds for denial or discipline of a license.]

*AUTHORITY: sections 324.481 and 324.496, RSMo [2000] **2016**. This rule originally filed as 4 CSR 15-3.020. Original rule filed July 24, 2001, effective Feb. 28, 2002. Moved to 20 CSR 2015-3.020, effective Aug. 28, 2006. Amended: Filed May 30, 2018.*

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 Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735, or via email at acupuncture@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2015—Acupuncturist Advisory Committee
Chapter 4—Supervision of Auricular Detox Technicians and Acupuncturist Trainees

PROPOSED AMENDMENT

20 CSR 2015-4.010 Supervision of Auricular Detox Technicians. The committee is amending sections (2), (4), (5), (6), and (7), deleting section (3) and renumbering as necessary.

PURPOSE: This amendment clarifies supervision of auricular detox technicians.

(2) *[A licensed acupuncturist shall provide supervision of a technician. For the purpose of this rule, electronic communication is acceptable for supervision if the communication is visually and/or verbally interactive, and no more than fifty percent (50%) of the supervision shall be by electronic means.]* **When providing supervision to a technician, a licensed acupuncturist shall have supervisory meetings with the technician a minimum of four (4) hours per month and be available on-site, by telephone or pager, when the technician is providing services as defined in 20 CSR 2015-4.010(1).**

(A) *[A licensed acupuncturist shall be available on-site or by telephone or pager when the detox technician is providing services as defined in 20 CSR 2015-4.010(1).]* **A minimum of two (2) hours per month shall consist of face-to-face supervision, at no less than fifty (50) continuous minutes per supervisory meeting, and include observing the technician inserting and removing the acupuncture needles in the auricle of the ear.**

(B) The remaining two (2) hours per month of supervisory meetings may be face-to-face or via electronic communication to include telephone contact, Internet such as email, video tape, or simultaneous visual and verbal interaction via the Internet.

[(3) Each technician shall meet with the licensed acupuncturist supervisor face-to-face a minimum of two (2) hours per week every two (2) weeks for each detox program utilizing the technician. The technician must obtain at least four (4) hours of face-to-face supervision within a calendar month for each detox program.]

*[(4)]***(3)** The licensed acupuncturist must exercise professional *[judgement]* **judgment** when determining the number of technicians s/he can safely and effectively supervise to ensure that quality care is provided at all times.

*[(5)]***(4)** Any duties assigned to a technician must be determined and *[appropriately]* supervised by a licensed acupuncturist and *[must]* not exceed the level of training, knowledge, skill, and competence of the detox technician being supervised. An acupuncturist may delegate to a technician only specific tasks that are not evaluative, assessment oriented, task selective, or recommending in nature.

*[(6)]***(5)** *[The licensed supervising acupuncturist is responsible for the professional conduct of a technician functioning in the acupuncture setting and performing procedures as defined in section (1) of this rule.]* **When providing supervision of a technician, a licensed acupuncturist is responsible for the oversight of the auricular detoxification procedures only. When referring to procedures provided by a technician, only the terms auricular detoxification or auricular detox shall be used.**

*[(7)]***(6)** Duties or functions that a technician *[may]* **shall** not perform include, *[but]* **and** are not limited to:

(C) Development, planning, adjusting**,** or modification of acupuncture treatment procedures;

(E) *[Any a]***A**cupuncture *[service]* performed independently or without supervision of a licensed acupuncturist.

*AUTHORITY: sections 324.475, 324.481, and 324.484, RSMo [2000] **2016**. This rule originally filed as 4 CSR 15-4.010. Original rule filed July 24, 2001, effective Feb. 28, 2002. Moved to 20 CSR 2015-4.010, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008. Amended: Filed May 30, 2018.*

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 Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735, or via email at acupuncture@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2015—Acupuncturist Advisory Committee
Chapter 4—Supervision of Auricular Detox Technicians and Acupuncturist Trainees

PROPOSED AMENDMENT

20 CSR 2015-4.020 Supervision of Acupuncturist Trainees. The committee is amending sections (1), (2), and (5) and deleting section (6).

PURPOSE: This amendment reduces unnecessary regulatory restrictions and consolidates regulatory language.

(1) An acupuncturist trainee (trainee) shall practice acupuncture on members of the public while under the direct supervision of a licensed acupuncturist. For the purpose of this rule direct supervision *[shall be defined as]* **is the** control, direction, instruction**,** and regulation of a student at all times.

(2) In order to qualify as a trainee, the individual shall be enrolled in a course of study authorized by the advisory committee **and not receive compensation for any acupuncture provided by the trainee**.

(5) Any duties assigned to an acupuncturist trainee must be supervised by a licensed acupuncturist and *[must]* not exceed the level of training, knowledge, skill, and competence of the individual being supervised. The licensed acupuncturist is responsible for the acts or actions performed by any acupuncturist trainee functioning in the acupuncture setting.

[(6) Trainees shall not receive compensation for any acupuncture services.]

*AUTHORITY: sections 324.481 and 324.487, RSMo [2000] **2016**. This rule originally filed as 4 CSR 15-4.020. Original rule filed July 24, 2001, effective Feb. 28, 2002. Amended: Filed March 15, 2004, effective Sept. 30, 2004. Moved to 20 CSR 2015-4.020, effective Aug. 28, 2006. Amended: Filed May 30, 2018.*

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 Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735, or via email at acupuncture@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 4—Applications

PROPOSED AMENDMENT

20 CSR 2030-4.010 Filing Deadline—*[Architects,]* **Professional Engineers***[,]* ***and*** **Professional Land Surveyors***[, Landscape Architects, Engineer Interns and Land Surveyors-in-Training]*. The board is amending the title, purpose statement, and section (1).

PURPOSE: This rule is being amended to delete reference to the filing deadline for applicants for examination as architects, landscape architects, engineer interns, and land surveyors-in-training due to the conversion to Computer Based Testing.

*PURPOSE: This rule sets filing deadline for applicants for examination and licensure as [architects,] professional engineers[,] **and** professional land surveyors[, landscape architects, engineer interns and land surveyors-in-training].*

(1) *[All a]***A**pplications for examination and licensure as *[an architect,]* **a** professional engineer*[,]* **or** professional land surveyor *[or landscape architect and all applications for examination and enrollment as an engineer intern or land surveyor-in-training]* shall be filed with the board prior to the established filing deadline.

*AUTHORITY: sections **327.041,** 327.141, 327.231, 327.241, 327.312, [and] 327.313, [RSMo 2000 and 327.041] and 327.615, RSMo [Supp. 2001] **2016**. This rule originally filed as 4 CSR 30-4.010. Original rule filed Aug. 22, 1973, effective Sept. 22, 1973. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.010 Special Examinations Prohibited. The board is amending the language of the rule.

PURPOSE: This rule is being amended due to the conversion to Computer Based Testing.

Examinations administered by the board *[shall]* **will** be given at times and places established by the board. **Examinations administered by the National Council of Architectural Registration Boards (NCARB), the National Council of Examiners for Engineering and Surveying (NCEES), or the Council of Landscape Architectural Registration Boards (CLARB), will be given at times and places established by the council.** No special

examinations will be conducted.

*AUTHORITY: section 327.041, RSMo [1986] **2016**. This rule originally filed as 4 CSR 30-5.010. Original rule filed March 16, 1970, effective April 16, 1970. Moved to 20 CSR 2030-5.010, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.030 Standards for Admission to Examination—Architects. The board is amending section (1) and deleting sections (2), (3), and (4).

PURPOSE: This rule is being amended to delete reference to a combined total of twelve (12) years of education, above the high school level, in section (1) and to delete sections (2), (3), and (4) in their entirety since this method of licensure is no longer an option and therefore not relevant.

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

(1) Every graduate from a curriculum fully accredited by the National Architectural Accreditation Board (NAAB), or other designated agencies as recognized by the National Council of Architectural Registration Boards (NCARB), *[who shall]* apply**ing** for architectural licensure shall submit with and as a part of the application documents as required in section 327.131, RSMo, a fully certified and completed **Architectural Experience Program (AXP) record formerly known as an** Intern Development Program (IDP) record. A person participating in *[IDP]* **AXP** through NCARB who has graduated with an NAAB accredited degree or equivalent degree from Canada *[or who has acquired a combined total of twelve (12) years of education, above the high school level pursuant to section 327.131, RSMo]*, may use the term "Architectural Intern."

[(2) Prior to January 1, 2012, every nongraduate applying for architectural licensure shall submit with and as part of the application documents as required in section 327.131, RSMo, a weekly record or log of diversified architectural experience covering a period of not fewer than two hundred eight (208) weeks immediately prior to application. Every weekly record or log shall be witnessed by the signature of a licensed architect having direct personal supervision of that experience. In addition to the experience log, there also shall be included in the application a chronological list of the education and architectural experience the applicant claims prior to the period of the log which will furnish a total of eight (8) years of architectural experience.

(3) The standard for satisfactory architectural experience shall be the criteria set forth in the National Council of Architectural Registration Board's Circular of Information No. 1, Appendix A dated 1990–1991, which is incorporated herein by reference. A copy of the information may be obtained by contacting the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington DC 20006-1301. The referenced material does not include any later amendments or additions.

(4) The standard for satisfactory architectural education shall be the criteria set forth in the National Council of Architectural Registration Board's Circular of Information No. 1, Appendix A dated 1978, which is incorporated herein by reference. A copy of the information may be obtained by contacting the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington DC 20006-1301. The referenced material does not include any later amendments or additions.]

*AUTHORITY: sections 327.041, [and] 327.131, [RSMo Supp. 2008 and sections] 327.141, and 327.221, RSMo [2000] **2016**. This rule originally filed as 4 CSR 30-5.030. Original rule filed March 16, 1970, effective April 16, 1970. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.055 Passing Grade—Architects. The board is amending the text of the rule.

PURPOSE: This rule is being amended to reflect the current way the architectural examinations are being graded by the National Council of Architectural Registration Boards (NCARB).

[The passing grade shall be seventy-five (75) on each portion of the architectural examination except for the design (graphic) portion of the examination. The passing grade for the design (graphic) portion of the examination, which is graded on a pass/fail basis, shall be pass.] **An applicant must obtain a passing score on each portion of the architectural examination in accordance with National Council of Architectural Registration Boards (NCARB) standards.**

AUTHORITY: section 327.041, RSMo [Supp. 1989] 2016. This rule originally filed as 4 CSR 30-5.055. Original rule filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed Feb. 4, 1992, effective June 25, 1992. Moved to 20 CSR 2030-5.055, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed May 30, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.080 Standards for Licensure—*Professional* Engineers. The board is amending the title, sections (1), (3), (4), and (7) and deleting section (9).

PURPOSE: This rule is being amended to bring the standards for admission to the engineering examinations in compliance with sections 327.221 and 327.392, RSMo.

(1) Before being admitted to the examination, an applicant for licensure as a professional engineer shall have the knowledge, skills**,** and experience as the board deems necessary to qualify the applicant for being placed in responsible charge of engineering work. The minimum length of experience required of the applicant, based on education, is three (3) years for any applicant holding a master's degree in engineering; however, an applicant will not be admitted to the examination sooner than four (4) years after the applicant has satisfied the educational requirements of sections 327.221 and 327.241, RSMo, provided, however, any applicant *[who shall have been]* conferred **with** a master's degree in engineering concurrently while acquiring three (3) years of satisfactory engineering experience, as provided in this rule, *[shall be admitted]* **qualifies for admission** to the examination. The Engineers' Council for Professional Development (ECPD) has been succeeded by the Accreditation Board for Engineering and Technology, Inc. (ABET). For purposes of evaluating engineering curricula at the baccalaureate level, the programs accredited by the Engineering Accreditation Commission (EAC) of ABET shall be the basis used for evaluation of programs not accredited by EAC of ABET.

(3) Foreign-educated applicants holding an engineering degree not accredited by ECPD, ABET, or its successor organizations will be required to submit a favorable evaluation report completed by an evaluation service acceptable by the professional engineering division of the board certifying equivalency to an ABET accredited degree. Applicants holding a United States of America (U*[.]*S*[.]*A*[.]*) engineering degree not accredited by ECPD, ABET, or its successor organizations will be required to have their educational degree program evaluated in order to determine whether or not it is equal to or exceeds the programs accredited by ECPD, ABET, or their successor organizations. The evaluation must be completed by an *[engineer(s) experienced in evaluating academic credentials selected by the professional engineering division or by an]* evaluation service acceptable by the professional engineering division of the board. The evaluator, by evaluation of transcripts and an official publication describing the engineering degree program of the institution, personal interview, by examination, or both in any other manner deemed suitable, shall make an evaluation as to whether the academic program completed by the applicant meets the minimum educational requirements established by section 327.221, RSMo. The evaluator shall recommend to the professional engineering division and report how any deficiencies can be corrected, listing prescribed educational areas to bring the applicant's academic qualifications up to the required minimum. Deficiencies in engineering courses must be made up with courses offered by an EAC/ABET-accredited degree program or equivalent. The report of the evaluator *[shall not be]* **is not** binding upon the division.

(4) An applicant who completes an engineering education program that is non-accredited and not deemed substantially equivalent and who then earns a graduate engineering degree from a United States school with an EAC/ABET-accredited undergraduate or graduate program in an equivalent discipline *[shall]* **will** be accepted for the licensure process. The graduate degree should be treated as confirming the undergraduate degree giving the applicant equal standing with an applicant who has graduated from an EAC/ABET undergraduate engineering program. The degree earned in the graduate program validates the degree earned in the non-accredited undergraduate program and would not then be applicable for experience credit.

(7) In evaluating the minimum engineering work experience required of all applicants, *[the professional engineering division shall grant]* maximum credit *[as follows]* **granted includes the following**:

[(9) In accordance with the authority conferred upon the board at section 327.241.6., RSMo, the board provides that any person, upon satisfactory showing of an urgent need, such as absence from the United States, economic hardship or professional necessity, and who has graduated from and holds an engineering degree from an accredited school of engineering, and has acquired at least three and one-half (3 1/2) years of satisfactory experience, and previously has been classified an engineer-in-training or engineer-intern by having successfully passed the first part of the examination, shall be eligible to take the second part of the examination and, upon passing, shall be entitled to receive a certificate

of licensure to practice as a professional engineer subject, however, to other provisions of Chapter 327, RSMo, including having acquired four (4) years of satisfactory experience.]

*AUTHORITY: sections 327.041, [RSMo Supp. 2007 and sections] 327.221, and 327.241, RSMo [2000] **2016**. This rule originally filed as 4 CSR 30-5.080. Original rule filed March 16, 1970, effective April 16, 1970. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.090 Scope of Examination—*Professional* Engineers. The board is amending the title, the purpose statement and all sections of the rule.

PURPOSE: This rule is being amended due to the conversion to Computer Based Testing which has resulted in a reduction of number of hours allowed for testing.

PURPOSE: This rule prescribes [hours and] subject matter of engineering examinations.

(1) The engineering examination *[shall]* consist**s** of two (2) parts. Each part of the examination *[shall]* consist**s** of two (2) *[four (4)-hour]* sections. Any reexamination *[shall]* consist**s** of all of part I or part *[two]* II, as the case shall require.

(2) Part I of the engineering examination *[shall be]* **is** in mathematics and basic sciences.

(3) Part II of the engineering examination *[shall be]* **is** in theory and practice of engineering.

*AUTHORITY: section 327.041, RSMo [1986] **2016**. This rule originally filed as 4 CSR 30-5.090. Original rule field March 16, 1970, effective April 16, 1970. Moved to 20 CSR 2030-5.090, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.100 Passing of Part I Required—*Professional* Engineers. The board is amending the title and section (1).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) No applicant for licensure as a professional engineer under section 327.221, RSMo *[shall be allowed to]* **may** take part II of the required examination without having first passed part I of that examination.

*AUTHORITY: sections 327.041, [and] 327.131, [RSMo Supp. 2005 and] 327.151, 327.221, and 327.241, RSMo [2000] **2016**. This rule originally filed as 4 CSR 30-5.100. Original rule filed Aug. 5, 1971, effective Sept. 5, 1971. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.105 Reexaminations—*Professional* Engineers. The

board is amending the title and sections (1) and (2).

PURPOSE: This rule is being amended due to the conversion to Computer Based Testing. Since all engineer-intern applicants now apply directly with the National Council of Examiners for Engineering and Surveying (NCEES), it is necessary for them to apply for reexamination in accordance with its policy.

(1) An applicant for enrollment as an engineer-intern failing to make a passing grade on the National Council of Examiners for Engineering and Surveying (NCEES) Fundamentals of Engineering Examination *[shall]* **may** have unlimited opportunities to retake the examination so long as the applicant remains qualified to be examined on the date of the reexamination and providing the *[following criteria are met:*

(A) The] applicant applies for reexamination *[on forms furnished by the board; and]* **in accordance with NCEES policy.**

[(B) The applicant pays the required reexamination fee; and

(C) The applicant files his/her application for reexamination on or before the filing deadline established by the board; and

(D) The applicant provides any additional information deemed pertinent by the board.]

(2) An applicant for examination and licensure as a professional engineer failing to make a passing grade on the NCEES Principles and Practice of Engineering Examination *[shall]* **may** have unlimited opportunities to retake the examination so long as the applicant remains qualified to be examined on the date of the reexamination and providing the following criteria are met:

(B) The applicant pays the *[required]* reexamination fee; and

*AUTHORITY: sections 327.041, [RSMo Supp. 2001,] 327.241, and 327.251, RSMo [2000] **2016**. This rule originally filed as 4 CSR 30-5.105. Original rule filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed Nov. 1, 2001, effective June 30, 2002. Moved to 20 CSR 2030-5.105, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.110 Standards for Admission to Examination—Professional Land Surveyors. The board is amending sections (1) and (2).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) *[No]* **Any** person *[shall]* apply**ing** for examination and licensure as a professional land surveyor in the state of Missouri *[unless said person is]* **must be** currently enrolled as a land surveyor-in-training and *[unless said person shall]* have acquired at least the following satisfactory professional field and office experience while enrolled as a land surveyor-in-training:

(A) If enrolled as a land surveyor-in-training prior to January 1, 2006 pursuant to the provisions of subsection (1) or (2) of section 327.312, RSMo, *[said person shall have acquired]* at least two (2) years of satisfactory professional field and office experience in land surveying under the immediate personal supervision of a licensed professional land surveyor;

(B) If enrolled as a land surveyor-in-training prior to January 1, 2006 pursuant to the provisions of subsection (3) of section 327.312, RSMo, *[said person shall have acquired]* at least one (1) year of satisfactory professional field and office experience in land surveying under the immediate personal supervision of a licensed professional land surveyor; and

(C) If enrolled as a land surveyor-in-training on or after January 1, 2006 pursuant to the provisions of subsection (1), (2), or (3) of section 327.312, RSMo, *[said person shall have acquired]* at least four (4) years of satisfactory professional field and office experience in land surveying under the immediate personal supervision of a professional land surveyor.

(2) *[For p]***P**rofessional field and office experience in land surveying *[to be]* **is** deemed satisfactory*[,]* **if** the applicant *[shall have]* **has** obtained at least twenty-four (24) months of the required experience as field experience and at least sixteen (16) months of the required experience as office experience. Furthermore, all professional field and office experience in land surveying shall be completed under the immediate personal supervision of a licensed professional land surveyor as defined in 20 CSR 2030-13.020. In evaluating satisfactory professional field and office experience in land surveying, credit shall be given as follows:

*AUTHORITY: sections 327.041, 327.312, and 327.314, RSMo [Supp. 2014] **2016**. This rule originally filed as 4 CSR 30-5.110. Original rule filed March 16, 1970, effective April 16, 1970. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.130 Reexamination—Land Surveyor-in-Training and Professional Land Surveyor. The board is amending all sections of the rule.

PURPOSE: This rule is being amended due to the conversion to Computer Based Testing. Since all land surveyor-in-training applicants now apply directly with the National Council of Examiners for Engineering and Surveying (NCEES), it is necessary for them to apply for reexamination in accordance with its policy.

(1) An applicant for enrollment as a land surveyor-in-training failing to make a passing grade on the National Council of Examiners for Engineering and Surveying (NCEES) Fundamentals of *[Land]* Surveying Examination *[shall]* **may** have unlimited opportunities to retake the examination so long as the applicant remains qualified to be examined on the date of the reexamination and providing the *[following criteria are met:*

(A) The] applicant applies for reexamination *[on forms furnished by the board;]* **in accordance with NCEES policy.**

[(B) The applicant pays the required reexamination fee;

(C) The applicant files his or her application for reexamination on or before the filing deadline established by the board; and

(D) The applicant provides any additional information deemed pertinent by the board.]

(2) An applicant for examination and licensure as a professional land surveyor failing to make a passing grade on the NCEES Principles and Practice of *[Land]* Surveying Examination *[shall]* **may** have unlimited opportunities to retake the examination so long as the applicant remains qualified to be examined on the date of the reexamination and providing the *[following criteria are met:*

(A) The] applicant applies for reexamination *[on forms furnished by the board;]* **in accordance with NCEES policy.**

[(B) The applicant pays the required reexamination fee;

(C) The applicant files his or her application for reexamination on or before the filing deadline established by the board; and

(D) The applicant provides any additional information deemed pertinent by the board.]

(3) An applicant for examination and licensure as a professional land surveyor failing to make a passing grade on the Missouri Specific Examination *[shall]* **may** have unlimited opportunities to retake the examination so long as the applicant remains qualified to be examined on the date of the reexamination and providing the following criteria are met:

*AUTHORITY: sections 327.041, [and] **327.312, 327.313,** 327.314, [RSMo Supp. 2001 and 327.312, 327.313,] 327.321, 327.331, and 327.341, RSMo [2000] **2016**. This rule originally filed as 4 CSR 30-5.130. Original rule filed Dec. 8, 1981, effective March 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.140 CLARB Examinations—*Professional* Landscape Architects. The board is amending section (1).

PURPOSE: This rule is being amended to add the word "Professional" in front of Landscape Architects.

(1) The board adopts the Council of Landscape Architectural Registration Boards' (CLARB) Landscape Architect Registration Examination (LARE) or its successor as its own. All applications for examination as a **professional** landscape architect shall be filed with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and **Professional** Landscape Architects, or a substantially equivalent provider so designated by the board, prior to the *[deadline]* established *[by the board]* **deadline**. An applicant *[shall]* **must** obtain a passing score on each portion of the examination in accordance with CLARB standards.

*AUTHORITY: sections 327.041 and 327.617, RSMo [Supp. 2003] **2016**. This rule originally filed as 4 CSR 30-5.140. Original rule filed Oct. 30, 2002, effective April 30, 2003. Amended: Filed Sept. 8, 2003, effective March 30, 2004. Moved to 20 CSR 2030-5.140, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 5—Examinations

PROPOSED RULE

20 CSR 2030-5.160 State Exam Covering Chapter 327, RSMo, the Board Rules, and Ethics

PURPOSE: This rule requires all applicants for an architectural, professional engineering, or professional landscape architectural license to pass a state specific examination covering Chapter 327, RSMo, the board rules, and ethics before being issued a license to practice.

(1) An examination on Chapter 327, RSMo, board rules, and ethics must be passed before an architect, professional engineer, or professional landscape architect can be licensed to practice in Missouri.

(2) The purpose of the examination is to ensure that applicants are familiar with the act regulating the professions of architects, professional engineers, and professional landscape architects and the ethics of practicing architecture, professional engineering, or professional landscape architecture. This is an open book examination administered online, at no cost to the applicant, via the board's website.

(3) Any applicant for examination and licensure as an architect, professional engineer, or professional landscape architect failing to make a passing grade on the examination may have unlimited opportunities to retake the examination so long as the applicant remains qualified to be examined.

(4) An applicant achieves a passing grade with a score of eighty percent (80%).

AUTHORITY: section 327.041, RSMo 2016. Original rule filed May 30, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 6—Fees

PROPOSED AMENDMENT

20 CSR 2030-6.015 Application, Renewal, *[Reinstatement,]* **Relicensure, and Miscellaneous Fees**. The board is amending sections (1), (2), and (3).

PURPOSE: This rule is being amended to add the word "Professional" in front of Landscape Architect and Land Surveyor and to delete the reinstatement fee, the 327.391 application filing fee, and the evaluation of non-accredited degree fee.

(1) The following fees are established by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects:

(E) **Professional** Land Surveyor Application Filing Fee—Comity	$200
(F) **Professional** Land Surveyor Application Filing Fee—Examination	$100
(G) **Professional** Land Surveyor Missouri Specific Examination	$100
(H) **Professional** Landscape Architect Application Filing Fee—Comity	$200
(I) **Professional** Landscape Architect Application Filing Fee—Examination	$100
(J) *[327.391 or]* 327.392 Application Filing Fee	$200
[(O) Individual Reinstatement Fee	*$150]*
*[(P)]***(O)** Individual Relicensure Fee	$200
*[(Q)]***(P)** Corporate Application Fee	$200
*[(R)]***(Q)** Corporate Renewal Fee	$ 50
[(S) Corporate Reinstatement Fee	*$150]*
*[(T)]***(R)** Corporate Reauthorization Fee	$200
*[(U)]***(S)** Certification Fee	$ 50
*[(V)]***(T)** Duplicate Certificate License Fee	$ 10
*[(W)]***(U)** Insufficient Funds Check Charge	$ 25
*[(X)]***(V)** Temporary Courtesy License Application Filing Fee for nonresident military spouse	$ 50
*[(Y)]***(W)** Temporary Courtesy License Extension Fee for nonresident military spouse	$ 50
[(Z) Evaluation of Non-Accredited Engineering Degrees	*$300]*

(2) Fees for photocopying and research *[shall]* not exceed**ing** the actual cost of the document search and duplication pursuant to section 610.025, RSMo**, may be charged**.

(3) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this rule *[shall]* remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 324.008[, RSMo Supp. 2013,] and [section] 327.041, RSMo [Supp. 2014] **2016**. This rule originally filed as 4 CSR 30-6.015. Emergency rule filed Aug. 12, 1981, effective Aug. 22, 1981, expired Dec. 10, 1981. Original rule filed Aug. 12, 1981, effective Nov. 12, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately seven thousand two hundred thirty dollars ($7,230) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will save private entities approximately seven thousand two hundred thirty dollars ($7,230) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 6 - Fees
Proposed Amendment to 20 CSR 2030-6.015 - Fees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		**($7,230)**
	Total Loss of Revenue Annually for the Life of the Rule	**($7,230)**

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The above figures are based on FY 2014 actuals.
2. The total loss of revenue is based on the cost savings to private entities reflected in the Private Fiscal Note filed with this rule.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 6 - Fees
Proposed Amendment to 20 CSR 2030-6.015 - Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated savings for the life of the rule by affected entities:
25	Individual Reinstatement Fee (Deleted Fee @ $150)	($3,750)
25	Individual Relicensure Fee (Relicensure Fee @ $200)	$5,000
12	Corporate Reinstatement Fee (Deleted Fee @ $150)	($1,800)
12	Corporate Reauthorization Fee (Reauthorization Fee @ $200)	$2,400
14	Evaluation of Non-Accredited Engineering Degrees Fee (Deleted Fee @ $300)	($4,200)
2	327.391 Application Filing Fee (Deleted Fee @ $200)	($400)
442	Engineer Intern Application Filing Fee (Cost Savings @ $10)	($4,420)
6	Land Surveyor-in-Training Application Filing Fee (Cost Savings @ $10)	($60)
	Estimated Annual Savings for the Life of the Rule	**($7,230)**

III. WORKSHEET

See Table Above

IV. ASSUMPTIONS

1. The above figures are based on FY 2014 actuals.
2. Pursuant to sections 327.171, 327.261, 327.351, and 327.621, RSMo amended by SB 809 (2014) , the board's licensees no longer have the option of reinstating their license at a fee of $150. Those licensees must now pay the $200 relicensure/reauthorization fee. The board currently collects the reauthorization fee. This fiscal note is to meet the requirements of section 536.205, RSMo, which requires the publication of a fiscal note for proposed rulemaking.

3. As of 2006, the evaluation of non-accredited engineering degrees have been processed by NCEES. Last year the board received 14 comity applications.
4. Section 327.391, RSMo was repealed effective August 28, 2014. The board recieves an average of two applicants per year for this licensure category.
5. 20 CSR 2030-4.010, 20 CSR 2030-5.010, 20 CSR 2030-5.105 and 20 CSR 2030-5.130 are being amended regarding the timing of payment of application fees for engineer interns and land surveyors-in-training. The application fee will be paid to the board after the applicant passes the examination. The board estimates a reduction in applications and the corresponding $10 fee.
6. It is anticipated that the total fiscal costs will occur for the life of the rule, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 6—Fees

PROPOSED AMENDMENT

20 CSR 2030-6.020 Reexamination Fees. The board is amending the purpose statement and sections (1) and (2).

PURPOSE: This rule is being amended due to the conversion to Computer Based Testing. Since all engineer-intern and land surveyor-in-training applicants now apply directly with the National Council of Examiners for Engineering and Surveying (NCEES), it is necessary for them to apply for reexamination in accordance with the Council's policy.

PURPOSE: This rule sets reexamination fees for professional engineers[, engineers-in-training, land surveyors-in-training] and professional land surveyors.

(1) The following reexamination/rescheduling application filing fees are established by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and **Professional** Landscape Architects:

(A) Professional Engineer	$ 50
[(B) Engineer Intern and Fundamentals of Engineering	*$ 50]*
*[(C)]***(B) Professional** Land Surveyor Missouri Specific	$ 75
*[(D)]***(C)** Principles and Practice of Surveying	$ 50
[(E) Land Surveyor-in-Training and Fundamentals of Surveying	*$ 50]*

(2) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this rule *[shall]* remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: section 327.041, RSMo [Supp. 2005] **2016**. This rule originally filed as 4 CSR 30-6.020. Original rule filed March 16, 1970, effective April 16, 1970. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately nineteen thousand one hundred fifty dollars ($19,150) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will save private entities approximately nineteen thousand one hundred fifty dollars ($19,150) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects

Chapter 6 - Fees

Proposed Amendment to 20 CSR 2030-6.020 - Reexamination Fees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivisio	Estimated Loss of Revenue	
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		**($19,150)**
	Total Loss of Revenue Annually for the Life of the	**($19,150)**

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The above figures are based on FY 2017 actuals.
2. The total loss of revenue is based on the cost savings to private entities reflected in the Private Fiscal Note filed with this rule.

Title 20 -Department of Insurance, Financial Institutions and Professional
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 6 - Fees
Proposed Amendment to 20 CSR 2030-6.020 - Reexamination Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated savings for the life of the rule by affected entities:
377	Engineer Intern and Fundamentals of Engineering Reexamination Fee (Deleted Fee @ $50)	($18,850)
6	Land Surveyor-in-Training and Fundamentals of Surveying Fee Reexmination (Deleted Fee @ $50)	($300)
	Estimated Annual Savings for the Life of the Rule	**($19,150)**

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on FY 2017 actuals.
2. Reexaminations are no longer conducted by the board, therefore the board no longer collects the fee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 8—Land Surveying

PROPOSED AMENDMENT

20 CSR 2030-8.020 Professional Land Surveyor—Professional Development Units. The board is amending sections (1), (2), and (4).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) Each licensed professional land surveyor, as a condition for renewal of his/her license, shall complete a minimum of twenty (20) professional development units (PDU**s**) each two- (2-) year period immediately preceding renewal, except as provided in section (2) of this rule.

(A) Of the *[required]* **twenty (20)** professional development units, licensed professional land surveyors shall complete a minimum of two (2) professional development units in Surveying Standards (20 CSR 2030, Chapters 16 and 17, and/or Chapters 60 and 327, RSMo) during the two- (2-) year period immediately preceding renewal.

(B) Of the *[required]* **twenty (20)** professional development units in the two- (2-) year renewal period, not more than twelve (12) shall be obtained in nonpersonal contact activities. Nonpersonal contact activities include correspondence courses, video and televised courses, Internet and email courses, or other activities where the presenter is not in physical proximity to the attendee.

(2) The following are exceptions to the requirement that licensees successfully complete twenty (20) PDUs prior to renewal:

(A) The licensee can show good cause why he/she was unable to complete the PDU requirements. In the event good cause is shown, the licensee will be *[required]* **allowed** to make up all outstanding required PDUs within a reasonable amount of time as established by the board;

(B) A professional land surveyor who holds licensure in Missouri for less than twelve (12) months from the date of his/her initial licensure, *[shall not be required to]* **need not** report PDUs at the first license renewal; or

(4) In evaluating PDUs for licensure renewal, the board will be guided by the following standards and guidelines:

(B) Except as otherwise stated in this rule, licensees *[shall]* **will** earn one (1) PDU for every fifty (50) to sixty (60) minutes of activity that qualifies as acceptable PDU credit pursuant to this rule.

(C) Activities.

1. PDU activities must be relevant to the practice of land surveying and may include technical, ethical, or business related content.

2. PDUs may be earned at locations outside Missouri, so long as the activity qualifies as acceptable PDU credit pursuant to this rule.

3. Assuming they otherwise qualify as acceptable PDU credit pursuant to this rule, the following activities are acceptable sources of PDU credits:

A. Successful completion of college or university course earns thirty (30) PDUs per semester hour and twenty (20) PDUs per quarter hour. Auditing or "hearing" a course qualifies for one-third (1/3) PDU credit of that stated herein;

B. Active participation and successful completion of seminars, tutorials, workshops, short courses, correspondence courses, or televised or videotaped courses. Attending program presentations at related technical or professional meetings. A correspondence course must require the participant to show evidence of achievement with a final graded test;

C. Authoring a paper or article earns five (5) PDUs upon actual publication in a regionally or nationally circulated technical journal or trade magazine. Credit cannot be claimed until that article or paper is actually published. *[Licensees shall not earn more than ten (10) PDUs per two- (2-) year renewal period for authoring a paper or article]* **PDUs earned for authoring a paper or article are limited to ten (10) PDUs per two- (2-) year renewal period**;

D. Teaching or instructing a course or seminar that satisfies the PDU criteria described in this rule, or making a presentation at a technical meeting or convention. For the original instruction or presentation, a licensee *[shall]* earn**s** two (2) PDUs for each PDU a participant could earn pursuant to this rule.

E. Notwithstanding the provisions above, PDUs will only be awarded for the first occurrence of attending or teaching a qualifying course or seminar per every two- (2-) year renewal period.

(7) The board will review all PDUs claimed in support of a renewal application. If audited and it is determined that a portion of the claimed PDUs fail to meet PDU requirements, the licensee will be notified in writing of the denied PDUs. The licensee *[shall]* **will** have three (3) months from the license renewal date in which to substantiate the original claim or to earn other credits to meet the minimum requirements. If PDUs are denied to the extent that the licensee has failed to obtain the required number of PDUs for renewal, then the board will deny issuance of the renewal.

*AUTHORITY: section 327.041, RSMo [Supp. 2014] **2016**. This rule originally filed as 4 CSR 30-8.020. Original rule filed Dec. 8, 1981, effective March 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 10—Corporations

PROPOSED AMENDMENT

20 CSR 2030-10.010 Application for Certificate of Authority. The board is amending sections (1), (2), (4), and (5).

PURPOSE: This rule is being amended for purpose of clarification and to add the word "professional" in front of land surveying and landscape architectural services and to allow managers of LLCs to

serve as the managing agent. This rule is being amended to provide clarity as to who serves as the managing agent.

(1) A corporation desiring a certificate of authority authorizing it to render architectural, professional engineering, **professional** land surveying**,** or **professional** landscape architectural services in this state shall submit an application to the executive director of the board, listing the names and addresses of all officers and directors for a corporation or **all** members **and managers** for a limited liability company*[. It shall also list]***, and listing** the managing agent for each profession who is licensed in this state to practice architecture, engineering, **land** surveying**,** or landscape architecture.

(2) *[The managing agent shall be]* **Only** an owner or officer of *[a]* **the applicant** corporation, or member **or manager** of *[a]* **the applicant** limited liability company, or a full-time employee of *[a]* **the applicant** corporation or *[a]* **the applicant** limited liability company **is eligible to be the managing agent**. If the managing agent is also the person providing immediate personal supervision, as defined by board rule(s) 20 CSR 2030-13.010 and/or 20 CSR 2030-13.020, then that person must *[work in the same office where the work is being performed]* **be employed directly under the licensee's organizational structure**.

(4) A certificate of authority is not required by a principal firm if the work is being done by a subconsultant who is licensed in this state. The principal firm cannot advertise itself as being able to provide architecture, engineering, land surveying, or landscape architecture services, or include the names of those professions in the name of their firm unless exempted pursuant to section 327.101(7), RSMo**,** *[or]* section 327.191(5), RSMo**, or section 327.629, RSMo**.

(5) A corporation which is currently authorized by this board to provide professional services may continue to renew its certificate of authority under the rules that were in effect prior to October 30, 2005 so long as the persons listed in the corporation's application do not change. If there is any change in any of the persons listed in the corporation's application, the provisions in this rule 20 CSR 2030-10.010 *[shall]* apply. The change shall be reported on a new form and submitted to the executive director of the board within thirty (30) days after the effective day of the change.

*AUTHORITY: section 327.041, RSMo [Supp. 2007] **2016**. This rule originally filed as 4 CSR 30-10.010. Original rule filed Dec. 8, 1981, effective March 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 15—Public Records

PROPOSED RULE

20 CSR 2030-15.020 Easements and Property Descriptions

PURPOSE: This rule defines which easements and property descriptions shall be prepared by a Professional Land Surveyor.

(1) In accordance with section 327.272(3) and (4), RSMo, the subdivision of a parcel of property to create a new parcel and the creation of a new recordable property description for that parcel is considered the practice of professional land surveying. A new recordable property description is defined as a description for any parcel of land that is not or has not previously been identified in the public record.

(2) A permanent easement is a recordable document for the acquisition and conveyance of property rights. Creating a permanent easement encumbers a parcel of property and affects real property rights. A professional land surveyor shall locate the boundary that an easement is based upon.

(3) The following services are not required to be performed by a professional land surveyor because the location of boundary lines is not affected:

(A) When the only property right being acquired or conveyed is access rights.

(B) When the only property right being acquired is a temporary easement.

(C) When the entire property is being acquired, and the property description is being copied from a previous deed of record.

(D) When at least one (1) boundary of the easement is contiguous with the property line in accordance with section (2) and is of uniform width.

AUTHORITY: section 327.041, RSMo 2016. Original rule filed May 30, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 21—Professional Engineering

PROPOSED AMENDMENT

20 CSR 2030-21.010 Design of Fire Suppression Systems. The board is amending the purpose statement and all sections of the rule and adding new section (4).

PURPOSE: This rule is being amended to define a qualified professional engineer and to provide clarity of the qualified professional engineer's responsibility regarding the design of fire suppression systems.

*PURPOSE: This rule requires [the design of] fire suppression systems to be designed[, prepared,] and sealed by, **or under the immediate personal supervision of,** a **qualified** professional engineer.*

(1) Pursuant to section 327.181, RSMo, the design of fire suppression systems is engineering and therefore the plans for those systems must be designed*[, prepared,]* and sealed by**, or under the immediate personal supervision of,** a **qualified** professional engineer. This can be accomplished **by either of** two (2) ways:

(A) *[The design]* **A qualified professional** engineer seals *[the]* construction documents that specify the design and **performance** criteria for the fire suppression system, including sprinklers, fire alarm*[s, and other suppression]* systems**, and other fire suppression systems**. The layout and sizing of these systems*[,]* **may be** done by a Level III Technician certified by the National Institute for Certification in Engineering Technologies (NICET) *[or a professional engineer, can]***. The resulting plans may** be submitted **to the qualified professional engineer** as *[a]* shop drawing**s**. *[These shop drawings may be sealed by a professional engineer.]* The *[design]* **qualified professional** engineer **issuing construction documents specifying design and performance criteria** must review and approve the **submitted** shop drawings for compliance with the design and specifications shown on the construction documents; *[and]* **or**

(B) *[If there is no design engineer for the fire suppression system, then the shop drawings]* **The plans** for the sprinklers, fire alarm*[s]* **systems**, and other **fire** suppression systems must be designed and *[prepared]* **sealed by, or** under the immediate personal supervision of**,** a **qualified** professional engineer. *[These shop drawings must be sealed by the professional engineer who prepared them.]*

(2) Nothing in this section *[shall]* prohibit**s** the *[design]* **qualified professional** engineer **issuing construction documents specifying design and performance criteria**, at his/her discretion, to specify and require *[the]* **submitted** shop drawings to be designed*[, prepared,]* and sealed, by**, or under the immediate personal supervision of,** a **qualified** professional engineer.

(3) The design of fire suppression systems for dwelling units as defined in the National Fire Protection Association's Standard for the Installation of Sprinkler Systems (NFPA 13D) is exempt and is not required to be designed by a **qualified** professional engineer so long as the layout and sizing of these systems are done by a Level III Technician certified in the Fire Suppression System Layout by the NICET. Engineer**ing** decisions needed when the scope of the project is not clearly addressed in NFPA 13D shall be done by a qualified professional engineer.

(4) The term "qualified professional engineer" used in 20 CSR 2030–21.010 means a professional engineer, as defined under section 327.181, RSMo, who has specific sprinkler, fire alarm system, or other fire suppression system education, training, and experience, as determined by the board, necessary to protect the health, safety, and welfare of the public.

*AUTHORITY: section 327.041, RSMo [Supp. 2008] **2016**. This rule originally filed as 4 CSR 30-21.010. Original rule filed May 13, 2005, effective Nov. 30, 2005. Moved to 20 CSR 2030-21.010, effective Aug. 28, 2006. Amended: Filed July 22, 2009, effective Jan. 30, 2010. Non-substantive change filed Oct. 21, 2015, effective Dec. 31, 2015. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 21—Professional Engineering

PROPOSED AMENDMENT

20 CSR 2030-21.020 Engineer of Record and Specialty Engineers. The board is amending the purpose statement and section (1).

PURPOSE: This rule is being amended to provide clarity between the roles of the engineer of record, specialty engineer(s), and architect of record.

*PURPOSE: In instances when there is more than one (1) **professional** engineer involved on a project, this rule will clarify what the responsibilities are of each **professional** engineer.*

(1) The professional engineer who develops the design criteria and concept for a particular project *[and discipline]*, **who is in responsible charge,** and who *[prepares]* **designs** or causes to be *[prepared]* **designed** under his/her immediate personal supervision the *[corresponding drawings, specifications, reports, or other documents]* **technical submissions**, shall be designated the engineer of record for the project *[and discipline]*. A professional engineer who provides services for specific portions of the project within a particular **engineering** discipline, but does not have a direct organizational *[contractual]* relationship with the *[corresponding]* engineer of record, shall be designated *[the]* **a** specialty engineer.

(A) The engineer of record *[shall]* communicate**s** in writing the extent of and complete design criteria, performance specifications**,** and other requirements for the portion of the project delegated to *[the]* **a** specialty engineer*[, which shall be limited to the same discipline as that of the engineer of record]*.

(B) *[The]* **A** specialty engineer *[shall]* perform**s** his/her services in strict accordance with the written requirements of the engineer of record, or *[shall]* clearly indicate**s** in writing any exceptions taken to said requirements in his/her submittals to the engineer of record.

(C) *[The]* **A** specialty engineer *[shall prepare]* **designs** or cause**s** to be *[prepared]* **designed** under his/her immediate personal supervision the *[drawings, specifications, reports, or other documents]* **technical submissions** that correspond to the portion of the project delegated by the engineer of record; *[shall]* seal**s**, sign**s**, and date**s** them in accordance with 20 CSR 2030-3.060; and *[shall]* submit**s**

them to the engineer of record.

(D) The engineer of record *[shall]* reviews the *[drawings, specifications, reports, or other documents]* **technical submissions** submitted by the specialty engineer**(s)** and confirms in writing that they conform to his/her written requirements and are consistent with *[the]* **his/her** intent of *[his/her drawings, specifications, reports, or other documents prepared for]* the project.

(E) An architect may delegate such engineering work as *[is incidental to the practice of architecture]* **the architect of record**, provided that he/she follows the requirements for the engineer of record as described in this rule.

*AUTHORITY: section 327.041, RSMo [Supp. 2007] **2016**. Original rule filed Jan. 15, 2008, effective July 30, 2008. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed May 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*