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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                      |
|---|---|--|--|
| May 1, 2018<br>May 15, 2018             | <b>June 1, 2018</b><br><b>June 15, 2018</b>           | June 30, 2018<br>June 30, 2018           | July 30, 2018<br>July 30, 2018           |
| June 1, 2018<br>June 15, 2018           | <b>July 2, 2018</b><br><b>July 16, 2018</b>           | July 31, 2018<br>July 31, 2018           | August 30, 2018<br>August 30, 2018       |
| July 2, 2018<br>July 16, 2018           | <b>August 1, 2018</b><br><b>August 15, 2018</b>       | August 31, 2018<br>August 31, 2018       | September 30, 2018<br>September 30, 2018 |
| August 1, 2018<br>August 15, 2018       | <b>September 4, 2018</b><br><b>September 17, 2018</b> | September 30, 2018<br>September 30, 2018 | October 30, 2018<br>October 30, 2018     |
| September 4, 2018<br>September 17, 2018 | <b>October 1, 2018</b><br><b>October 15, 2018</b>     | October 31, 2018<br>October 31, 2018     | November 30, 2018<br>November 30, 2018   |
| October 1, 2018<br>October 15, 2018     | <b>November 1, 2018</b><br><b>November 15, 2018</b>   | November 30, 2018<br>November 30, 2018   | December 30, 2018<br>December 30, 2018   |
| November 1, 2018<br>November 15, 2018   | <b>December 3, 2018</b><br><b>December 17, 2018</b>   | December 31, 2018<br>December 31, 2018   | January 30, 2019<br>January 30, 2019     |
| December 3, 2018<br>December 17, 2018   | <b>January 2, 2019</b><br><b>January 15, 2019</b>     | January 29, 2019<br>January 29, 2019     | February 28, 2019<br>February 28, 2019   |
| January 2, 2019<br>January 15, 2019     | <b>February 1, 2019</b><br><b>February 15, 2019</b>   | February 28, 2019<br>February 28, 2019   | March 30, 2019<br>March 30, 2019         |

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](http://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–

| <b>Title</b> |  | <b>Division</b>    | <b>Chapter</b>            | <b>Rule</b>                |
|--------------|--|--------------------|---------------------------|----------------------------|
| 3            | CSR                                      | 10-                | 4                         | .115                       |
| Department   | <i>Code of<br/>State<br/>Regulations</i> | Agency<br>Division | General area<br>regulated | Specific area<br>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](http://www.sos.mo.gov/adrules/csr/csr)

The *Register* address is [www.sos.mo.gov/adrules/moreg/moreg](http://www.sos.mo.gov/adrules/moreg/moreg)

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

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2016. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

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

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

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

### Division 2245—Real Estate Appraisers

#### Chapter 1—Organization and Description of Commission

#### EMERGENCY AMENDMENT

**20 CSR 2245-1.010 General Organization.** The board is amending section (9).

*PURPOSE:* This amendment changes the version of the *Uniform Standards of Professional Appraisal Practice (USPAP)* that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo.

*EMERGENCY STATEMENT:* This rule is being amended to reflect the current version of *Uniform Standards of Professional Appraisal Practice (USPAP)* that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo. Section 536.031.3, RSMo, allows an agency to incorporate by reference regulations, standards, and guidelines of an agency of the *United States* or a nationally or state-recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date. Being that the newest edition was effective January 1, 2018, Missouri licensees need to be held accountable to this edition when completing an appraisal assignment for properties located within the state.

*The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Title XI purpose is to "provide that Federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions (FRTs) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision."*

*The ASC oversees the real estate appraisal process as it relates to federally related transactions in Title XI. The ASC is a subcommittee of the FFIEC. The FFIEC is an interagency body empowered to set uniform principles for the examination of federally regulated financial institutions.*

*Title XI sets out the ASC's responsibilities including:*

- *Monitor the requirements established by the states, territories, and the District of Columbia for the certification and licensing of appraisers qualified to perform appraisals in connection with FRTs. The ASC periodically reviews each state for compliance with the requirements of Title XI and the ASC is authorized to take action in the case of non-compliance;*

- *Monitor the requirements established by the federal financial institutions regulatory agencies with respect to appraisal standards for FRTs under their jurisdiction as to which FRTs require the use of a state-certified appraiser or state licensed appraiser;*

- *Maintain a National Registry of state-certified and state licensed appraisers who may perform appraisals in connection with FRTs;*

- *Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation (AF).*

*Pursuant to section 339.535, RSMo "State - certified real estate appraisers, state licensed real estate appraisers, state licensed real estate appraiser trainees, and state-certified appraiser trainees shall comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation." Representatives with the Appraisal Subcommittee were in Missouri auditing the program from June 25-27, 2018 at which time they noted and strongly recommended, more than once, that the commission amend the regulations to be compliant with their policies. While they did not say it would be an audit finding in their exit interview with staff, it very well could be, which would mean Missouri is non-compliant with federal regulations and would have to correct the violation promptly. Continued failure to be in compliance with federal regulations could have a very serious impact and preclude Missouri appraisers from working in the industry, as a state program must be in compliance with the federal requirements for continued participation. Therefore, the Missouri Real Estate Appraiser Commission's regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. This emergency amendment is necessary because Missouri regulations must be consistent with federal regulations. Therefore, this emergency amendment is necessary to preserve a compelling governmental interest.*

*The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. In developing this emergency amendment, the board has determined the Missouri Real Estate Appraiser Commission's regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. The board believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 7, 2018, becomes effective August 17, 2018, and expires February 28, 2019.*

(9) For purposes of this section, the *Uniform Standards of Professional Appraisal Practice* (USPAP), [2016] 2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments to USPAP.

**AUTHORITY:** sections 339.507, [RSMo Supp. 2014, section] 339.509, [RSMo Supp. 2013,] and [section] 339.544, RSMo [2000] 2016. This rule originally filed as 4 CSR 245-1.010. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2245—Real Estate Appraisers  
Chapter 3—Applications for Certification and Licensure**

**EMERGENCY AMENDMENT**

**20 CSR 2245-3.005 Trainee Real Estate Appraiser Registration.**  
The commission is amending subsection (6)(B).

**PURPOSE:** This amendment changes the version of the *Uniform Standards of Professional Appraisal Practice* (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo.

**EMERGENCY STATEMENT:** This rule is being amended to reflect the current version of *Uniform Standards of Professional Appraisal Practice* (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo. Section 536.031.3, RSMo, allows an agency to incorporate by reference regulations, standards, and guidelines of an agency of the United States or a nationally or state-recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date. Being that the newest edition was effective January 1, 2018, Missouri licensees need to be held accountable to this edition when completing an appraisal assignment for properties located within the state.

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Title XI purpose is to “provide that Federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions (FRTs) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”

The ASC oversees the real estate appraisal process as it relates to federally related transactions in Title XI. The ASC is a subcommittee of the FFIEC. The FFIEC is an interagency body empowered to set uniform principles for the examination of federally regulated financial institutions.

Title XI sets out the ASC’s responsibilities including:

- Monitor the requirements established by the states, territories, and the District of Columbia for the certification and licensing of appraisers qualified to perform appraisals in connection with FRTs. The ASC periodically reviews each state for compliance with the

requirements of Title XI and the ASC is authorized to take action in the case of non-compliance;

- Monitor the requirements established by the federal financial institutions regulatory agencies with respect to appraisal standards for FRTs under their jurisdiction as to which FRTs require the use of a state-certified appraiser or state licensed appraiser;

- Maintain a National Registry of state-certified and state licensed appraisers who may perform appraisals in connection with FRTs;

- Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation (AF).

Pursuant to section 339.535, RSMo “State – certified real estate appraisers, state licensed real estate appraisers, state licensed real estate appraiser trainees, and state-certified appraiser trainees shall comply with the *Uniform Standards of Professional Appraisal Practice* promulgated by the appraisal standards board of the appraisal foundation.” Representatives with the Appraisal Subcommittee were in Missouri auditing the program from June 25–27, 2018 at which time they noted and strongly recommended, more than once, that the commission amend the regulations to be compliant with their policies. While they did not say it would be an audit finding in their exit interview with staff, it very well could be, which would mean Missouri is non-compliant with federal regulations and would have to correct the violation promptly. Continued failure to be in compliance with federal regulations could have a very serious impact and preclude Missouri appraisers from working in the industry, as a state program must be in compliance with the federal requirements for continued participation. Therefore, the Missouri Real Estate Appraiser Commission’s regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. This emergency amendment is necessary because Missouri regulations must be consistent with federal regulations. Therefore, this emergency amendment is necessary to preserve a compelling governmental interest.

The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. In developing this emergency amendment, the board has determined the Missouri Real Estate Appraiser Commission’s regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. The board believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 7, 2018, becomes effective August 17, 2018, and expires February 28, 2019.

(6) Training.

(B) The supervising appraiser(s) shall be responsible for the training, guidance, and direct supervision of the registrant by—

1. Accepting responsibility for the appraisal report by signing and certifying that the report complies with the *Uniform Standards of Professional Appraisal Practice* (USPAP), [2016] 2018 Edition. The USPAP, [2016] 2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments or additions to the USPAP;

2. Reviewing and signing the appraisal report(s) for which the registrant has provided appraisal services; and

3. Personally inspecting each appraised property with the registrant until the supervising appraiser determines the registrant trainee is competent, in accordance with the competency rule of USPAP. If applying for a residential certification, the supervising appraiser shall personally inspect fifty (50) properties with the registrant, unless otherwise waived by the commission for good cause. If applying for certified general, the supervising appraiser shall personally inspect twenty (20) nonresidential properties with the registrant, unless otherwise waived by the commission for good cause.

*AUTHORITY: section 339.509(8), RSMo [Supp. 2013] 2016. Original rule filed Nov. 21, 2006, effective July 30, 2007. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2245—Real Estate Appraisers  
Chapter 3—Applications for Certification and Licensure**

**EMERGENCY AMENDMENT**

**20 CSR 2245-3.010 Applications for Certification and Licensure.**  
The commission is amending subsection (5)(B).

*PURPOSE: This amendment changes the version of the Uniform Standards of Professional Appraisal Practice (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo.*

*EMERGENCY STATEMENT: This rule is being amended to reflect the current version of Uniform Standards of Professional Appraisal Practice (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo. Section 536.031.3, RSMo, allows an agency to incorporate by reference regulations, standards, and guidelines of an agency of the United States or a nationally or state-recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date. Being that the newest edition was effective January 1, 2018, Missouri licensees need to be held accountable to this edition when completing an appraisal assignment for properties located within the state.*

*The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Title XI purpose is to “provide that Federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions (FRTs) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”*

*The ASC oversees the real estate appraisal process as it relates to federally related transactions in Title XI. The ASC is a subcommittee of the FFIEC. The FFIEC is an interagency body empowered to set uniform principles for the examination of federally regulated financial institutions.*

*Title XI sets out the ASC’s responsibilities including:*

- *Monitor the requirements established by the states, territories, and the District of Columbia for the certification and licensing of appraisers qualified to perform appraisals in connection with FRTs. The ASC periodically reviews each state for compliance with the requirements of Title XI and the ASC is authorized to take action in the case of non-compliance;*

- *Monitor the requirements established by the federal financial institutions regulatory agencies with respect to appraisal standards for FRTs under their jurisdiction as to which FRTs require the use of a state-certified appraiser or state licensed appraiser;*

- *Maintain a National Registry of state-certified and state licensed appraisers who may perform appraisals in connection with FRTs;*

- *Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation (AF).*

*Pursuant to section 339.535, RSMo “State – certified real estate*

*appraisers, state licensed real estate appraisers, state licensed real estate appraiser trainees, and state-certified appraiser trainees shall comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation.” Representatives with the Appraisal Subcommittee were in Missouri auditing the program from June 25–27, 2018 at which time they noted and strongly recommended, more than once, that the commission amend the regulations to be compliant with their policies. While they did not say it would be an audit finding in their exit interview with staff, it very well could be, which would mean Missouri is non-compliant with federal regulations and would have to correct the violation promptly. Continued failure to be in compliance with federal regulations could have a very serious impact and preclude Missouri appraisers from working in the industry, as a state program must be in compliance with the federal requirements for continued participation. Therefore, the Missouri Real Estate Appraiser Commission’s regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. This emergency amendment is necessary because Missouri regulations must be consistent with federal regulations. Therefore, this emergency amendment is necessary to preserve a compelling governmental interest.*

*The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the board has determined the Missouri Real Estate Appraiser Commission’s regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. The board believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 7, 2018, becomes effective August 17, 2018, and expires February 28, 2019.*

(5) Prerequisite for Certification.

(B) State-Certified Residential Appraiser.

1. The prerequisite for certification as a state-certified residential appraiser shall be two thousand five hundred (2,500) hours of appraisal experience obtained continuously over a period of not less than twenty-four (24) months under the supervision of a state-certified real estate appraiser. Hours may be treated as cumulative in order to achieve the necessary two thousand five hundred (2,500) hours of appraisal experience, and there is no limitation on the number of hours which may be awarded in any year. Each applicant for certification shall furnish, under oath, a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commission a sample of appraisal reports which the applicant has prepared in the course of the applicant’s appraisal practice. For the purposes of this section, “prepared” means the participation in any function of the real estate appraisal report. Education may not be substituted for experience except as allowed in section (8) of this rule. All experience shall have been obtained after January 30, 1989, and shall be *Uniform Standards of Professional Appraisal Practice (USPAP)* compliant. The USPAP, [2016] 2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments or additions to the USPAP. Acceptable appraisal experience as defined by the Appraiser Qualifications Board (AQB) includes, but is not limited to, the following (this should not be construed as limiting credit to only those individuals who are state-certified or state-licensed):

- A. Fee and staff appraisal;
- B. *Ad valorem* tax appraisal;
- C. Technical review appraisal;
- D. Appraisal analysis;

- E. Real estate consulting;
- F. Highest and best use analysis;
- G. Feasibility analysis/study; and
- H. Condemnation appraisal.

**AUTHORITY:** sections 339.509, 339.515, and 339.517, RSMo [Supp. 2013] 2016. This rule originally filed as 4 CSR 245-3.010. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

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

### Division 2245—Real Estate Appraisers Chapter 6—Educational Requirements

#### EMERGENCY AMENDMENT

**20 CSR 2245-6.040 Case Study Courses.** The commission is amending subsection (1)(B).

**PURPOSE:** This amendment changes the version of the *Uniform Standards of Professional Appraisal Practice (USPAP)* that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo.

**EMERGENCY STATEMENT:** This rule is being amended to reflect the current version of *Uniform Standards of Professional Appraisal Practice (USPAP)* that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo. Section 536.031.3, RSMo, allows an agency to incorporate by reference regulations, standards, and guidelines of an agency of the United States or a nationally or state-recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date. Being that the newest edition was effective January 1, 2018, Missouri licensees need to be held accountable to this edition when completing an appraisal assignment for properties located within the state.

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989, pursuant to Title XI of the *Financial Institutions Reform, Recovery and Enforcement Act of 1989*. Title XI purpose is to “provide that Federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions (FRTs) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”

The ASC oversees the real estate appraisal process as it relates to federally related transactions in Title XI. The ASC is a subcommittee of the FFIEC. The FFIEC is an interagency body empowered to set uniform principles for the examination of federally regulated financial institutions.

Title XI sets out the ASC’s responsibilities including:

- Monitor the requirements established by the states, territories, and the District of Columbia for the certification and licensing of appraisers qualified to perform appraisals in connection with FRTs. The ASC periodically reviews each state for compliance with the requirements of Title XI and the ASC is authorized to take action in the case of non-compliance;
- Monitor the requirements established by the federal financial

institutions regulatory agencies with respect to appraisal standards for FRTs under their jurisdiction as to which FRTs require the use of a state-certified appraiser or state licensed appraiser;

- Maintain a National Registry of state-certified and state licensed appraisers who may perform appraisals in connection with FRTs;

- Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation (AF).

Pursuant to section 339.535, RSMo “State – certified real estate appraisers, state licensed real estate appraisers, state licensed real estate appraiser trainees, and state-certified appraiser trainees shall comply with the *Uniform Standards of Professional Appraisal Practice* promulgated by the appraisal standards board of the appraisal foundation.” Representatives with the Appraisal Subcommittee were in Missouri auditing the program from June 25–27, 2018 at which time they noted and strongly recommended, more than once, that the commission amend the regulations to be compliant with their policies. While they did not say it would be an audit finding in their exit interview with staff, it very well could be, which would mean Missouri is non-compliant with federal regulations and would have to correct the violation promptly. Continued failure to be in compliance with federal regulations could have a very serious impact and preclude Missouri appraisers from working in the industry, as a state program must be in compliance with the federal requirements for continued participation. Therefore, the Missouri Real Estate Appraiser Commission’s regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. This emergency amendment is necessary because Missouri regulations must be consistent with federal regulations. Therefore, this emergency amendment is necessary to preserve a compelling governmental interest.

The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. In developing this emergency amendment, the board has determined the Missouri Real Estate Appraiser Commission’s regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. The board believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 7, 2018, becomes effective August 17, 2018, and expires February 28, 2019.

(1) General.

(B) Case study courses shall be at least thirty (30) hours of instruction. For each case study course, experience credit hours may not exceed three (3) times the education credit granted, and in no event shall the experience credit granted for a single course exceed ninety (90) hours. An applicant for licensure or certification may receive thirty (30) hours of pre-licensure education credit upon passage of an examination approved by the Appraiser Qualifications Board (AQB) course approval program or by an alternate method established by the AQB. A licensee may receive twenty-eight (28) hours of continuing education credit for a case study course as allowed pursuant to 20 CSR 2245-8.010. An applicant for licensure or certification will receive the experience credit upon completing one (1) or more *Uniform Standards of Professional Appraisal Practice (USPAP)* compliant appraisal reports for the course. The USPAP, [2016] 2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments or additions to the USPAP. The amount of education and experience credit available from a case study course will be determined at the time it is approved by the AQB course approval program or by an alternate method established by the AQB.

**AUTHORITY:** section 339.509(3) and (4), RSMo [Supp. 2013] 2016. Original rule filed Nov. 21, 2006, effective July 30, 2007. For



*intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

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

**Division 2245—Real Estate Appraisers  
Chapter 8—Continuing Education**

**EMERGENCY AMENDMENT**

**20 CSR 2245-8.010 Requirements.** The commission is amending section (11).

*PURPOSE:* This amendment changes the version of the Uniform Standards of Professional Appraisal Practice (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo.

*EMERGENCY STATEMENT:* This rule is being amended to reflect the current version of Uniform Standards of Professional Appraisal Practice (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo. Section 536.031.3, RSMo, allows an agency to incorporate by reference regulations, standards, and guidelines of an agency of the United States or a nationally or state-recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date. Being that the newest edition was effective January 1, 2018, Missouri licensees need to be held accountable to this edition when completing an appraisal assignment for properties located within the state.

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Title XI purpose is to “provide that Federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions (FRTs) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”

The ASC oversees the real estate appraisal process as it relates to federally related transactions in Title XI. The ASC is a subcommittee of the FFIEC. The FFIEC is an interagency body empowered to set uniform principles for the examination of federally regulated financial institutions.

Title XI sets out the ASC’s responsibilities including:

- Monitor the requirements established by the states, territories, and the District of Columbia for the certification and licensing of appraisers qualified to perform appraisals in connection with FRTs. The ASC periodically reviews each state for compliance with the requirements of Title XI and the ASC is authorized to take action in the case of non-compliance;

- Monitor the requirements established by the federal financial institutions regulatory agencies with respect to appraisal standards for FRTs under their jurisdiction as to which FRTs require the use of a state-certified appraiser or state licensed appraiser;

- Maintain a National Registry of state-certified and state licensed appraisers who may perform appraisals in connection with FRTs;

- Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation (AF).

Pursuant to section 339.535, RSMo “State – certified real estate appraisers, state licensed real estate appraisers, state licensed real estate appraiser trainees, and state-certified appraiser trainees shall

*comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation.” Representatives with the Appraisal Subcommittee were in Missouri auditing the program from June 25–27, 2018 at which time they noted and strongly recommended, more than once, that the commission amend the regulations to be compliant with their policies. While they did not say it would be an audit finding in their exit interview with staff, it very well could be, which would mean Missouri is non-compliant with federal regulations and would have to correct the violation promptly. Continued failure to be in compliance with federal regulations could have a very serious impact and preclude Missouri appraisers from working in the industry, as a state program must be in compliance with the federal requirements for continued participation. Therefore, the Missouri Real Estate Appraiser Commission’s regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. This emergency amendment is necessary because Missouri regulations must be consistent with federal regulations. Therefore, this emergency amendment is necessary to preserve a compelling governmental interest.*

The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the board has determined the Missouri Real Estate Appraiser Commission’s regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. The board believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 7, 2018, becomes effective August 17, 2018, and expires February 28, 2019.

(11) All licensees of the state of Missouri shall complete, for continuing education credit, the seven- (7-) hour national Uniform Standards of Professional Appraisal Practice (USPAP) update course or its equivalent during each renewal cycle. The USPAP, [2016] 2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments or additions to the USPAP.

*AUTHORITY:* sections 339.509[, RSMo Supp. 2013,] and [section] 339.530, RSMo [2000] 2016. This rule originally filed as 4 CSR 245-8.010. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

**Division 2245—Real Estate Appraisers  
Chapter 8—Continuing Education**

**EMERGENCY AMENDMENT**

**20 CSR 2245-8.030 Instructor Approval.** The commission is amending section (4).

*PURPOSE:* This amendment changes the version of the Uniform Standards of Professional Appraisal Practice (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535,

RSMo.

**EMERGENCY STATEMENT:** This rule is being amended to reflect the current version of Uniform Standards of Professional Appraisal Practice (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo. Section 536.031.3, RSMo, allows an agency to incorporate by reference regulations, standards, and guidelines of an agency of the United States or a nationally or state-recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date. Being that the newest edition was effective January 1, 2018, Missouri licensees need to be held accountable to this edition when completing an appraisal assignment for properties located within the state.

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Title XI purpose is to "provide that Federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions (FRTs) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision."

The ASC oversees the real estate appraisal process as it relates to federally related transactions in Title XI. The ASC is a subcommittee of the FFIEC. The FFIEC is an interagency body empowered to set uniform principles for the examination of federally regulated financial institutions.

Title XI sets out the ASC's responsibilities including:

- Monitor the requirements established by the states, territories, and the District of Columbia for the certification and licensing of appraisers qualified to perform appraisals in connection with FRTs. The ASC periodically reviews each state for compliance with the requirements of Title XI and the ASC is authorized to take action in the case of non-compliance;
- Monitor the requirements established by the federal financial institutions regulatory agencies with respect to appraisal standards for FRTs under their jurisdiction as to which FRTs require the use of a state-certified appraiser or state licensed appraiser;
- Maintain a National Registry of state-certified and state licensed appraisers who may perform appraisals in connection with FRTs;
- Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation (AF).

Pursuant to section 339.535, RSMo "State – certified real estate appraisers, state licensed real estate appraisers, state licensed real estate appraiser trainees, and state-certified appraiser trainees shall comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation." Representatives with the Appraisal Subcommittee were in Missouri auditing the program from June 25–27, 2018 at which time they noted and strongly recommended, more than once, that the commission amend the regulations to be compliant with their policies. While they did not say it would be an audit finding in their exit interview with staff, it very well could be, which would mean Missouri is non-compliant with federal regulations and would have to correct the violation promptly. Continued failure to be in compliance with federal regulations could have a very serious impact and preclude Missouri appraisers from working in the industry, as a state program must be in compliance with the federal requirements for continued participation. Therefore, the Missouri Real Estate Appraiser Commission's regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. This emergency amendment is necessary because Missouri regulations must be consistent with federal regulations. Therefore, this emergency amendment is necessary to preserve a compelling governmental interest.

The scope of the emergency amendment is limited to the circum-

stances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. In developing this emergency amendment, the board has determined the Missouri Real Estate Appraiser Commission's regulations need to be amended to reflect the most recent edition effective January 1, 2018 so that Missouri appraisers are not in violation of federal regulations. The board believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 7, 2018, becomes effective August 17, 2018, and expires February 28, 2019.

(4) All instructors of the national *Uniform Standards of Professional Appraisal Practice* (USPAP) course, the national USPAP update course, or their equivalents shall be approved through the instructor certification program of the Appraisal Qualifications Board (AQB) or by an alternate method established by the AQB. The USPAP, [2016/2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments or additions to the USPAP. At least one (1) instructor of the national USPAP course and the national USPAP update course shall be a state-certified appraiser and shall be approved through the AQB instructor certification program.

**AUTHORITY:** sections 339.509], RSMo Supp. 2013,] and [section] 339.530, RSMo [2000] 2016. This rule originally filed as 4 CSR 245-8.030. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

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

**E**ntirely new rules are printed without any special 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.

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

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

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

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

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 24—Driver License Bureau Rules**

**PROPOSED RESCISSION**

**12 CSR 10-24.470 Procedure for Obtaining a "J88" Notation on a Drivers License for Deafness or Hard of Hearing.** This rule established the procedures for an individual to obtain a "J88" (Deaf or Hard of Hearing) notation on a drivers license as provided in section 302.174, RSMo.

*PURPOSE: This rule is being rescinded because it is unnecessary, overly burdensome, and because a self-certification process is adequate for purposes of implementing SB 814 (99th General Assembly 2018). SB 814 removes "J88" as the indicator and establishes a "DHH" indicator.*

*AUTHORITY: section 302.174, RSMo Supp. 2001. Original rule filed Nov. 15, 2001, effective May 30, 2002. Rescinded: Filed Aug. 8, 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 Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division [30] 40—[Child Support Enforcement]  
Family Support Division  
Chapter [2] 108—[Performance Measures]  
Child Support Program, Counties under Cooperative  
Agreement**

**PROPOSED AMENDMENT**

**13 CSR [30-2.010] 40-108.040 Prosecuting Attorneys' Performance Standards.** The division is moving this rule to a new division and chapter and amending all sections.

*PURPOSE: This amendment moves this rule to the Family Support Division and groups it in a chapter with other child support rules. It also updates terminology throughout.*

(1) Definitions. *[As used in this regulation—]*

(A) "Prosecuting attorney" means the person elected as the prosecuting attorney for any county or the City of St. Louis, or any assistant prosecuting attorney duly appointed by a prosecuting attorney, or any person employed by the prosecuting attorney, or any person acting on behalf of the prosecuting attorney with actual or apparent authority[;].

(B) "Division" means the Family Support Division[;].

(C) "Director" means the person serving as director of the Missouri Family Support Division[;].

(D) "State agency" means the Missouri Department of Social Services[;].

(E) "Case" means a matter in which the state agency or the division has initiated or will initiate an action to collect funds arising from a child support matter, including the case record maintained under 45 CFR 302.33 and 45 CFR 303.2[;].

(F) "Referral" means a case sent to a prosecuting attorney *[by] on behalf of* the division[;].

(G) "Successful completion" of an action means that a referral has been determined by the division or the prosecuting attorney to require no further action by the prosecuting attorney. In cases where judicial proceedings are determined necessary by the prosecuting attorney, a case is completed successfully if the necessary documentation has been submitted to the clerk for filing and service of process has been completed or an unsuccessful attempt to serve process has been documented by the prosecuting attorney, and the prosecuting attorney is proceeding with due diligence. If the initial attempt at service of process is unsuccessful, then the prosecuting attorney shall proceed with diligent efforts to serve process as

defined in subsection (1)(M);/.

(H) "Adequate documentation" means written or electronically stored records, the accuracy and authenticity of which specifically are adopted by the prosecuting attorney, and from which a reasonable person, by normal and reasonable review, can determine what actions were taken by the prosecuting attorney and the outcome of those actions. Adequate documentation and adequate records shall have the same meaning. Documentation includes all case file records and all other records pertaining to referrals. For purposes of service of process, adequate documentation shall be a copy of the return of service from the process server or documentation in the case file of the contents of the return of service. No documentation shall be deemed adequate if it fails to meet the requirements of 45 CFR 303.2;/.

(I) "Requested action" means any act by the prosecuting attorney requested to be performed by the division including, but not limited to, the initiating of correspondence on a case, the researching of legal issues and/or investigation, the filing or preparation of legal documents or other correspondence, or the obtaining and forwarding to the division or the state agency data and information related to a referral(s). A requested action shall include all requirements of the cooperative agreement and any training or cooperation with federal or state agency auditors, as may be asked of the prosecuting attorney by the division;/.

(J) "A Level A county" means a county in which the prosecuting attorney has sole responsibility for the *[entire]* operation of the IV-D program in that county, **for cases assigned by the division**, and also performs specific legal functions on referrals sent to him/her by the division;/.

(K) "A Level B county" means a county in which the prosecuting attorney has sole responsibility for a specific portion of the IV-D program in that county, **for cases assigned by the division**, and also performs specific legal functions on referrals sent to him/her by the division;/.

(L) "A Level C county" means a county in which the division has sole responsibility for the entire operation of the IV-D program in that county and the prosecuting attorney performs specific legal functions on referrals sent to him/her by the division;/ *and*/.

(M) "Diligent efforts" to serve process means efforts which, in the sound discretion of the prosecuting attorney, are designed reasonably, under the particular circumstances of the case, to ensure accomplishment of personal service, taking into account the potential cost of the service and the risk of personal safety of the person attempting service. The prosecuting attorney shall provide adequate documentation to explain the failure of service. In cases where previous attempts to serve process failed and adequate identifying and other information exists, the prosecuting attorney, within ninety (90) days of the last attempt at service, shall reattempt service of process in the event that there is a likelihood of successful service of process.

(2) Performance Requirements Standards for All Counties on Cases Referred by the Division.

(C) The time frames contained in subsection (2)(A) of this rule shall be tolled for those time periods during which the prosecuting attorney has requested information from the division that is essential to the successful completion of the requested action; or time periods in which the custodian does not cooperate with the prosecuting attorney and the custodian's cooperation is essential to the successful completion of the requested action, provided the prosecuting attorney has documented the date the noncooperation occurred and the reason for determination of noncooperation in the *[Missouri Automated Child Support System (MACSS)] automated child support system*. Tolling due to noncooperation shall terminate only upon the custodian's affirmative action that is essential to the successful completion of the requested action. The prosecuting attorney (PA) shall document the date the affirmative action occurred and the reason for determination of cooperation in *[MACSS] the automated child support system*.

(G) If a prosecuting attorney determines that no appropriate legal

remedy is available on a case, **and documents in the automated child support system the reason for return or rejection**, that case shall be dropped from the audit sample of a compliance review conducted based on the requirements of 13 CSR 30-2.010(2).

(H) The prosecuting attorney shall notify the division of the conclusion of all requested actions by documenting the conclusion in the *[Missouri Automated Child Support System] automated child support system* and sending to the division any supporting documentation that provides information regarding the disposition of the referral within twenty (20) calendar days of the supporting documentation being received by the PA.

(3) Performance Standards for Level A and Level B Counties for Cases in Their Own Caseload. The prosecuting attorney shall—

(A) Make applications for child support enforcement services readily accessible to the public;

(B) Maintain records of all persons applying for IV-D services. The records shall include documentation that applications are being provided to the applicants in conformance with 45 CFR 303.2(a)(2);

*[(C)] Date stamp all applications on the date of receipt; and*

*[(D)] Open the case, within twenty (20) calendar days of receipt of a referral of a case or filing of an application for services, by establishing a case record and by fully complying with all the requirements of 45 CFR 303.2(b).*

(4) Performance Standards for Level A and Level B Counties for Cases in Their Own Caseloads.

(A) *Definition. Location means information concerning the physical whereabouts of the absent parent, or the absent parent's employer(s), other sources of income or assets, as appropriate, which is sufficient and necessary to take the next appropriate action on a case.]*

*[(B)](C) For all cases referred to the [IV-D agency] division or applying for services, the prosecuting attorney shall attempt to locate all [absent] noncustodial parents or alleged fathers, the location of noncustodial parents' or alleged fathers' employers, or other sources of income and/or assets when location is necessary to take necessary action. The location attempts shall be in full compliance with 45 CFR 303.3(b)(1)-[3]/.;*

*[(C)](D) In all cases where previous attempts to locate [absent] noncustodial parents or alleged fathers, employers, or sources of income and/or assets have failed, but adequate identifying or other information exists to meet requirements for submittal for location, the prosecuting attorney shall comply fully with all requirements of 45 CFR 303.3(b)(5) and (6)/.;*

*[(D)](E) The prosecuting attorney shall refer all appropriate cases to the IV-D agency of any other state in full compliance with the requirements of 45 CFR 303.7/./;*

*[(E)](F) The prosecuting attorney, within ninety (90) calendar days of locating the [alleged father or] noncustodial parent or alleged father, regardless of whether paternity has been established, shall establish an order for support, or complete service of process necessary to begin proceedings to establish an order for support, or complete service of process necessary to begin proceedings to establish a court order, and if necessary, paternity, or document unsuccessful attempts to serve process in accordance with subsection (1)(M) of this rule. In all cases needing support order establishment, regardless of whether paternity has been established—*

1. The prosecuting attorney shall complete action to establish support orders from the date of service of process to the time of disposition within the following time frames:

A. Seventy-five percent (75%) in six (6) months; and

B. Ninety percent (90%) in twelve (12) months;

2. In cases where the prosecuting attorney uses long-arm jurisdiction and disposition occurs within twelve (12) months of service of process on the *[alleged father or]* noncustodial parent or **alleged father**, the case may be counted as a success within the six- (6-)/-/ month tier of the time frame regardless of when disposition occurs in the twelve- (12-)/-/ month period following service of process;

3. In all cases in which the court or administrative authority dismisses a petition for a support order without prejudice, the prosecuting attorney, at the time of the dismissal, shall examine the reasons for dismissal and determine when it would be appropriate to seek an order in the future; and

4. In all cases in which the prosecuting attorney is seeking to establish a support obligation, the prosecuting attorney shall apply the child support guidelines as set forth in Supreme Court Rule 88.01. The prosecuting attorney shall notify the division of any deviation from the guidelines **by documenting the deviation in the automated child support system**./;

*[(F)](G)* For all cases *[referred]* assigned to the prosecuting attorney *[by the IV-A agency or applying for services]* in which paternity has not been established, the prosecuting attorney shall—

1. File for paternity establishment, or complete service of process to establish paternity or document unsuccessful attempts to serve process in accordance with subsection (1)(M) of this rule, within no more than ninety (90) calendar days of locating the alleged father;

2. Establish paternity or exclude the alleged father as a result of genetic tests and/or legal process within the time frames set out in paragraphs *[(4)](E)](3)(F)*1. and 2. of this rule; and

3. Meet the requirements set forth in paragraphs *[(4)](F)](3)(G)*1. and 2. of this rule for all alleged fathers, in any case where an alleged father is excluded, but more than one (1) alleged father has been identified./;

*[(G)](H)* For all cases *[referred]* assigned to the prosecuting attorney *[by the IV-A agency or applying for services]* in which *[the obligation to support and the amount of the obligation has been established]* **a child support order has been established**, the prosecuting attorney shall maintain and use an effective system to—

1. Monitor compliance with the support obligation;

2. Identify on the date the parent **owing a duty of support** failed to make payments in an amount equal to the support payable for one (1) month;

3. Enforce the obligation in full compliance with the requirements of 45 CFR 303.6(c)(1)[—](3); and

4. *[Examine, in cases in which enforcement attempts have been unsuccessful, at the time an attempt to enforce fails, the reason the enforcement attempt failed and determine when it would be appropriate to take an enforcement action in the future and take an enforcement action according to the requirements of this paragraph at that time.]* **In cases in which enforcement attempts have failed, the prosecuting attorneys should examine the reason the attempt failed and determine when it would be appropriate to take enforcement action in the future. When appropriate, the prosecuting attorney shall take action in full compliance with the requirements of 45 CFR 303.6(c)(1)–(3);**

*[(H)](I)* The prosecuting attorney shall comply with the system developed by the division for case assessment and prioritization./;

*[(I)](J)* The prosecuting attorney shall comply with the system developed by the division for case closure./;

*[(J)](K)* The prosecuting attorney shall comply with the provisions of 13 CSR *[30-5.020]* **40-102.010**./; and

*[(K)](L)* Notwithstanding the time frames contained in—

1. Subsection *[(4)](E)] (3)(F)* of this rule, if a support order needs to be established in a case and an order is established in accordance with Missouri Supreme Court Rule 88.01 during the audit period, the prosecuting attorney will be considered to have taken appropriate action in that case for audit purposes; and

2. Paragraph *[(4)](G)](3)(H)*3. of this rule, if the requested action is an enforcement action and an action is taken, in addition to federal and state income tax refund offset, which results in a collection received during the audit period, the prosecuting attorney will be considered to have taken appropriate action in the case for audit purposes.

*[(5)](4)* Performance Requirements.

(A) The following are mandatory requirements by which prosecuting attorneys' actions on referred cases shall be evaluated:

1. The county shall provide services on referred cases according to federal and state statutes and regulations and cooperative agreement requirements, including those related to financial reimbursement for services provided on referred cases. Failure to do so shall be deemed failure to comply with this rule and this provision. Waivers of this provision may be granted by the division director but are not effective unless granted in writing and are not effective retroactively unless specifically set forth by the director as being permissibly applied retroactively for a specified time period;

2. The county shall cooperate with compliance reviews conducted by the division pursuant to the requirements of 13 CSR *[30-2.070]***40-108.040**(2), which will occur no more frequently than semi-annually. Upon completion of the compliance review, the division shall submit a draft compliance review results summary to the county. The county shall have the right to submit written rebuttals of this review to the manager of the division compliance review section within thirty (30) days of receiving the review results. The division shall then have sixty (60) days in which to submit, in writing, its decision on each and every case rebutted to the county. The county shall then have fifteen (15) days to submit, in writing, the division's rebuttal decisions for review *de novo* by the division's deputy director *[of field operations]*. After review *de novo*, the final decision of the division shall be issued within *[thirty (30)] sixty (60)* days. *[Either party]* **The county may request in writing an extension of the time/frames contained herein. The division will notify the county if an extension of the division's timeframes are necessary;**

3. The division will otherwise retain authority to conduct special audits and take appropriate action based on the special audit. The division will also retain the authority to discuss with the prosecuting attorney the actions taken in all cases that have been referred to the county and take other action as set forth in the cooperative agreement between the state **agency** and the prosecuting attorney; and

4. The county shall achieve substantial compliance with the performance requirements set forth in this regulation concerning actions taken on referred cases and meeting time requirements in so doing. Substantial compliance means that the county has achieved the same case quality standards for those activities for which it is responsible, as are required by the division of its child support offices set forth by federal statutes, federal regulations, and federal IV-D policy.

*[(6)](5)* Sanctions by the Division.

(A) Upon determining that a prosecuting attorney has not complied with the requirements of this rule or is not complying with the requirements of this rule, the division may send notice that it has determined one (1) of the following conditions to exist:

1. That the prosecuting attorney is in significant noncompliance with this rule and that a written corrective action plan addressing all aspects of noncompliance as described in the division's notice must be submitted to the division within thirty (30) calendar days after the division sends the notice of significant noncompliance. The division shall approve or disapprove each corrective action plan within twenty (20) calendar days after it is sent to the division by the prosecuting attorney. *[Failure by the division to send timely notice of approval or disapproval shall constitute approval.]* The prosecuting attorney shall have twenty (20) calendar days from the date the division sends a disapproval to resubmit a new corrective action plan. Failure to submit a new plan timely may be determined by the division to constitute substantial noncompliance;

*[2.]A.* To be approved by the division, a corrective action plan, at a minimum, must contain the following: 1) an overall completion date of no more than twelve (12) calendar months from the date of division approval, 2) a statement of planned correction addressing each item of noncompliance as set forth in the division's notice of significant noncompliance, 3) an individual completion date for each item of noncompliance contained in the division's notice of

significant noncompliance, 4) a statement that during the plan of correction, no part of the prosecuting attorney's performance will become out of compliance during the plan of correction period, and 5) a statement that the prosecuting attorney will attend such training as deemed necessary by the division. The division's notice of significant noncompliance shall contain the following: 1) a listing of specific items of this rule with which the division alleges the prosecuting attorney is not in compliance, 2) an explanation of the method used by the division to determine noncompliance, 3) a statement that the division's determination is final and that a corrective action plan will be required, and 4) the date the corrective action plan is due; or

**[3.]B.** That the prosecuting attorney is in substantial noncompliance with this rule and that the cooperative agreement with the county of the prosecuting attorney will be cancelled. A notice of substantial noncompliance shall set forth, in addition to the information required for a notice of significant noncompliance, a description of the findings, facts and circumstances giving rise to the notice of substantial noncompliance and shall specify a date certain upon which the cooperative agreement will no longer be of any force and effect. The division may issue a notice of substantial noncompliance to a prosecuting attorney only when—1) there is no corrective action plan in effect for the office of the prosecuting attorney to which the notice is issued, 2) a review or audit of the prosecuting attorney's child support enforcement procedures and/or records has been conducted and issued as a final report, and 3) a notice of significant noncompliance has been previously issued to the prosecuting attorney and has not been successfully completed or a notice of significant noncompliance has been issued and no corrective action plan has been approved by the division within ninety (90) calendar days from the date of the division's notice of significant noncompliance.

(B) By issuing or failing to issue any notice of noncompliance, the division does not alter, waive, or otherwise substitute this rule for any of the division's rights or benefits agreed to in the cooperative agreement by the county of the prosecuting attorney.

**[(7)](6)** Waivers for Counties. The director may waive any requirement of this rule for any county if all of the following conditions have been met by that county prior to the waiver being granted:

(A) The prosecuting attorney has requested a waiver in writing, whenever possible, identifying the specific cases to which the waiver will apply;

(B) The prosecuting attorney has assured the director in writing that the waiver will not permit or cause a failure to achieve successful completion of a case; and

(C) The waiver does not violate any state or federal law or rule.

**[(8)](7)** All timeliness requirements of this rule that are calculated from the date the division sends a document, notice, or request, except those requirements found in paragraphs **[(5)](4)(A)1.[–5.]–4.**, upon request of the prosecuting attorney, shall be calculated from the date the prosecuting attorney actually received the notice, document, or request. This request shall be granted if the prosecuting attorney has a reasonably accurate and reliable procedure to verify the actual date of receipt.

**AUTHORITY:** sections 454.400.2(5) and 660.017, RSMo [2000] 2016. Original rule filed Oct. 18, 1988, effective Jan. 13, 1989. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking,

PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES

### Division [30] 40—[Child Support Enforcement]

#### Family Support Division

### Chapter [4] 104—[Income Withholding]

#### Child Support Program, Enforcement

## PROPOSED AMENDMENT

**13 CSR [30-4.020] 40-104.010 Immediate Income Withholding Exceptions for [Administrative] Child Support Orders.** The division is amending all sections and is moving this rule from Division 30 to Division 40 in Title 13 of the Code of State Regulations.

**PURPOSE:** This amendment allows for exceptions to immediate income withholding for administrative and judicial orders that are being entered and modified by the Division. It also updates terminology and moves the rule from Title 13, Division 30—Child Support Enforcement to Title 13, Division 40—Family Support Division.

**PURPOSE:** This rule establishes and sets forth the procedures for allowing exceptions from immediate income withholding when [administrative] child support orders are entered or modified by the [Division of Child Support Enforcement] Family Support Division pursuant to sections 454.460[–]–454.520, RSMo.

(1) Definitions[. As used in this rule]—

(A) [Absent parent means a natural or adoptive parent who does not reside with his/her dependent child(ren) and against whom the division is seeking to establish and enforce a support order] “Division” means the Family Support Division;

(B) [Administrative order means a child support order established by administrative process pursuant to sections 454.460–454.520, RSMo.] “Director” means the director of the Family Support Division or his/her designee;

(C) [Aid to families with dependent children (AFDC)] “Temporary Assistance for Needy Families (TANF)” means a financial assistance program for families with children, also known as Title IV-A of the Social Security Act;

(D) [Arrearage means past-due child/spousal support] “Obligor” means any person who owes a duty of support as determined by a court or administrative agency of competent jurisdiction;

(E) [Assignee means a state agency to which a child's custodian relinquishes the right to receive child support, either by agreement or by operation of law] “Obligee” means a person to whom a duty of support is owed as determined by a court or administrative agency of competent jurisdiction;

(F) [Bond means a cashier's check or money order payable to the Division of Child Support Enforcement to ensure the payment of child support] “Arrearage” means past-due child support owed under a child support order;

(G) [Current support means the periodic child support obligation, imposed by administrative order] “Assignee” means a state agency to which an obligee relinquishes the right to receive child support, either by agreement or by operation of law;

(H) [Director means the director of the Missouri Division of Child Support Enforcement or a designee] “Bond” means a cashier's check or money order payable to the division to ensure the payment of child support under a child support order;

(I) [Division means the Missouri Division of Child Support Enforcement] “Current support” means the periodic child support obligation, imposed by a child support order;

(J) “Good cause” means the circumstances under which the director will not impose an immediate order to withhold income upon entry of an *[administrative]* order for child support;

(K) “Income withholding” means the withholding of any form of payment to an individual regardless of source, including, but not limited to, wages, salary, commissions, compensation as an independent contractor, Workers’ Compensation, disability, annuity, and retirement benefits, and any other payments made by any person, private entity, federal or state government, any unit of local government, school district, or any entity created by public law or ordinance;

(L) “Notice and finding of financial responsibility” means a written allegation as to the *[absent]* parent’s responsibility to support his/her child(ren), which precedes the establishment of an administrative **child support** order for support pursuant to *[sections 454.460–454.520, RSMo; and] Chapter 454, RSMo of the Missouri Revised Statutes;*

(M) “Written agreement” means an agreement in writing between the *[absent parent] obligor* and the *[custodial parent or caretaker] obligee*, and in cases in which there is an assignment of support rights, an agreement between the *[absent parent] obligor* and the assignee, which provides for an alternative arrangement for payment of support to the *[circuit clerk] Family Support Payment Center* and is signed by each party to the agreement./.; and

(N) “Family Support Payment Center” means the state disbursement unit established by the division pursuant to section 454.530, RSMo, for the receipt and disbursement of payments made pursuant to support orders.

(2) Immediate Income Withholding When Initial Order is Entered.

(A) The director shall issue an immediate withholding order to the *[absent parent’s] obligor’s* employer or other payor on the *[effective] entry* date of the *[administrative] child support* order *[issued pursuant to sections 454.460–454.520, RSMo]*, unless the director determines that good cause exists not to do so or unless there is a written agreement as defined in this rule.

(B) *[The director shall determine that g]Good cause* exists for not effecting immediate income withholding if—

1. The *[absent parent] obligor* posts a bond with the division equal to two (2) months’ current support at the time the **child support** order is entered;

2. The *[absent parent] obligor* agrees to notify the division of his/her current employer’s name and address as long as the **child support** order is in effect; and

3. The *[absent parent] obligor* provides proof that *[s/he] he/she* has obtained or applied for medical insurance for the child(ren) named in the notice and finding of **financial responsibility**, unless the *[custodial parent or caretaker] obligee* has medical insurance for the *[absent parent’s] obligor’s* child(ren) other than Medicaid.

(C) The division shall hold the bond in *[trust and, so long as] escrow. The bond will not accrue interest while held by the division. If no arrearage is owed[,] to the obligee, the division* shall refund any remaining balance to the *[absent parent] obligor* within sixty (60) days of—

1. The date the division is notified *[of] by the obligee that the child(ren)’s emancipation or the termination of the support order] no longer meet requirements for continued support under 452.340, RSMo, or a court order or administrative order finds that the child(ren) are no longer eligible for continued support;* or

2. The date the *[child(ren)’s custodian] obligee* stops receiving child support enforcement services from the division.

(D) If the *[absent parent] obligor* misses a scheduled child support payment and an arrearage equal to or greater than one (1) month’s current support amount has accrued, the director will—

1. Apply the bond to the *[absent parent’s] obligor’s* child support arrearage and pay to the *[custodian] obligee*, or the current assignee of support rights, the amount of the accrued arrearage, up to the remaining bond amount; and

2. Issue an income withholding order to the *[absent parent’s]*

*obligor’s* employer or other payor, if known.

(3) Immediate Income Withholding When *[Administrative] Child Support Orders Are Modified.*

(A) The director shall issue an immediate income withholding order to the *[absent parent’s] obligor’s* employer or other payor on the *[effective] entry* date of the **modification** of any *[administrative] child support* order modified under sections 454.496, and 454.500, RSMo, unless the director determines that good cause exists not to do so or unless there is a written agreement as defined in this rule.

(B) *[The director shall determine that g]Good cause* exists for not effecting immediate income withholding if the *[absent parent] obligor* provides to the division—

1. A written request that immediate income withholding not be implemented;

2. *[Court] Trusteeship* records showing that an arrearage did not exist on the *[administrative] child support* order prior to its modification;

3. *[Court] Trusteeship* records showing that all payments on the *[administrative] child support* order were made on or before the due date;

4. Proof that *[s/he] he/she* has obtained or applied for medical insurance for the child(ren) named in the order, unless the *[custodial parent or caretaker] obligee* has medical insurance other than Medicaid for the *[absent parent’s] obligor’s* child(ren); and

5. A written agreement to notify the division of the name and address of his/her current employer as long as the **child support** order is in effect.

(C) Notwithstanding the fact *[that the director has determined] that good cause* exists under subsection (3)(B) of this rule, **an income withholding** shall be effected if any one (1) of the following occurs:

1. The *[absent parent] obligor* misses any scheduled payments on the child support order and an arrearage exists equal to at least one (1) month’s current support;

2. The *[absent parent] obligor* requests that income withholding begin;

3. The *[custodial parent or caretaker] obligee* requests that income withholding begin and the **Family Support Payment Center** received at least one (1) **scheduled payment** *[has been received]* after its due date;

4. The *[absent parent] obligor* does not provide the division with his/her new employer’s name and address; or

5. The *[absent parent] obligor* terminates medical insurance coverage for the child(ren) named in a **child support** order that includes medical support, unless the termination is done with the consent of the *[custodial parent, caretaker] obligee* or assignee.

(4) Written Agreement.

(A) As assignee of support rights, the director *[shall] will* not enter into a written agreement not to impose immediate income withholding if the *[custodian of] person owed support* for the *[absent parent’s] obligor’s* child(ren) is receiving *[AFDC] TANF* on the date the notice and finding of financial responsibility is issued.

(B) If the *[custodian] obligee* is not receiving *[AFDC] TANF* when the notice and finding of financial responsibility is issued, the director shall notify the *[absent parent] obligor* and *[custodian] the obligee* that immediate income withholding will be initiated on the *[effective] entry* date of the *[administrative] order* unless—

1. The *[custodial parent or caretaker] obligee* and the *[absent parent] obligor* each sign and within twenty (20) calendar days return to the division a written agreement allowing the *[absent parent] obligor* to make child support payments directly to the *[circuit court] Family Support Payment Center;*

2. The *[absent parent] obligor* agrees to notify the division of his/her current employer’s name and address as long as the **child support** order is in effect; and

3. The *[absent parent] obligor* provides proof that *[s/he]*

he/she has obtained or applied for medical insurance for the child(ren) named in the notice and finding of financial responsibility, unless the [custodian] obligee has medical insurance for the [absent parent's] obligor's child(ren) other than Medicaid.

(C) The written agreement shall be invalid and the director shall initiate an income withholding order to the [absent parent's] obligor's employer or other payor without prior notice to either party if—

1. The [absent parent] obligor misses any scheduled payments on the child support order and an arrearage exists equal to at least one (1) month's current support;

2. The [absent parent] obligor requests that income withholding begin;

3. The [custodial parent or caretaker] obligee requests that income withholding begin and the [circuit court receives] Family Support Payment Center received at least one (1) scheduled payment after its due date;

4. The [absent parent] obligor does not provide the division with his/her new employer's name and address; or

5. The [absent parent] obligor terminates medical insurance coverage for the child(ren) named in a child support order that includes medical support, unless it is terminated with the consent of the [custodial parent, caretaker] obligee or assignee.

(D) If the legal custody of the child(ren) has been placed with the [Division of Family Services] Children's Division, a written agreement not to impose immediate income withholding may be obtained between the [absent parent] obligor and the [Division of Family Services] Children's Division caseworker assigned to the child(ren)'s alternative care case. The agreement shall be in accordance with the terms and requirements of subsections (4)(B) and (C) of this rule.

[(E) If the physical custody of the child(ren) has been placed with the Department of Mental Health, a written agreement not to impose immediate income withholding may be obtained between the absent parent and the reimbursement administrator of the Department of Mental Health or his/her designee. The agreement shall be in accordance with the terms and requirements of subsections (4)(B) and (C) of this rule, except that the absent parent will not be required to provide proof that s/he has obtained or applied for medical insurance for the child(ren) named in the notice and finding.]

**AUTHORITY:** sections 454.400 and 660.017, RSMo [Supp. 1990] 2016. Original rule filed Dec. 24, 1990, effective June 10, 1991. Moved and amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division [30] 40 [Child Support Enforcement]**  
**Family Support Division**  
**Chapter [9] 108—[Incentives] Child Support Program,**  
**Counties under Cooperative Agreement**

**PROPOSED AMENDMENT**

**13 CSR [30-9.010] 40-108.030 Incentives.** The division is moving this rule to a new division and chapter and amending the purpose and all sections.

**PURPOSE:** This amendment moves this rule to the Family Support Division and groups it in a chapter with other child support rules. It also updates terminology throughout.

**PURPOSE:** [The purpose of t]This rule [is to] defines how the Family Support Division [of Child Support Enforcement] will share available federal incentive funds with counties for allowable expenses not to exceed one hundred percent (100%) of counties' reasonable and necessary costs.

(1) Definitions. [For the purposes of this rule, the following definitions are applicable.]

(A) "Division" means the **Family Support Division [of Child Support Enforcement]**.

(B) "Director" means the director of the **Family Support Division [of Child Support Enforcement]**.

(C) [New] "[f]Formula" means the amount otherwise payable to a state as federal incentives under Section 458A of the Social Security Act.

[(D) Old formula means the amount otherwise payable to a state as federal incentives under Section 458 of the Social Security Act.]

[(E)](D) "Counties" means all counties and all cities not located within a county.

[(F)](E) "Allowable expenses" means expenses that may be claimed pursuant to [13 CSR 30-3.010] **13 CSR 40-108.010**.

[(G)](F) "TANF" means temporary [aid] assistance for needy families.

[(H)](G) "County incentives" means the total amount of money counties are entitled to receive [whether under the new formula, or the old formula or both] from the federal incentives received by the state as set forth in Section 458A of the Social Security Act. County [I]incentives are equal to six percent (6%) of their counties' TANF collections plus six percent (6%) of their counties' non-TANF collections (not to exceed the six percent (6%) of TANF collections). Level A and B counties will receive six percent (6%) of their counties' TANF collections plus six percent (6%) of non-TANF collections (up to one hundred fifteen percent (115%) of their counties' TANF collections). The incentives are subject to availability of federal funding and shall only be paid from federal incentive funds.

[(2) Three (3) Year Phase-In Plan. Between October 1, 1999 and September 30, 2000, county incentives will be paid at the rate of two-thirds (2/3) from the old formula and one-third (1/3) from the new formula. Between October 1, 2000, and September 30, 2001, county incentives will be paid at the rate of one-third (1/3) from the old formula and two-thirds (2/3) from the new formula. Beginning October 1, 2001, and thereafter, county incentives will be paid at one hundred percent (100%) from the new formula.]

[(3)](2) Payments to be Received by Counties. Incentive payments to counties [under the new formula] shall not exceed one hundred percent (100%) of the counties' allowable expenses which have not been reimbursed pursuant to 13 CSR [30-3.010] **40-108.010**. If the funds received by the county [from the old formula plus the new formula] do not equal one hundred percent (100%) of the counties' non-reimbursed allowable expenses, the division [will] may, at the sole discretion of the director, allocate additional funds up to one hundred percent (100%) of non-reimbursed allowable expenses, if federal funds are available [from the new formula] after all other counties have received their county incentives. If the total federal funds received by the state [under the new formula], which have not been paid to counties, are not sufficient to cover counties' cost



[which] that have not been reimbursed pursuant to 13 CSR [30-3.010] 40-108.010, or [which] that have not been covered by incentives [paid under the new and old formula], the counties will share the incentives on a *pro rata* share based on the percent of the counties' total IV-D collections. If at any time federal incentives received by the state are insufficient to pay county incentives, then the federal incentives shall be distributed to the counties *pro rata* based on collections in IV-D cases. If the total federal funds received by the state [under the new formula] exceed the amount necessary to pay all counties allowable costs after reimbursement pursuant to 13 CSR [30-3.010] 40-108.010, and receipt of all incentives to which they are entitled [to under both the old and new formulas], the state shall retain these incentives for use as appropriate[d].

[(4)](3) [Base Year Expenses.] The division will initially use a county's first calendar year [1999] under a cooperative agreement with the Department of Social Services for child support services as the starting base year to determine the amount of allowable expenses for each county. The base year will include expenses of the counties that are normal and usual yearly expenses for the counties' operations. The division will exclude from the base year any one- (1-) time expenses not related to normal and usual expenses. After the first base year is established, then each year thereafter[,] the previously approved year's expenses will be used as the base year. **If a county does not utilize all of its base year allotment for expenses, the next year's base year expense amount may be decreased by the amount not utilized by the county in the previous year.** The counties may request additional funding over the base amount from the director [of the division] in writing. These requests must be received by the director on or before the first day of July. Additional requests may be submitted as needed throughout the year. Requests may be made for increases to the base year or for a one- (1-) time expense. The director may approve the request, deny the request, or approve for reimbursement pursuant to 13 CSR [30-3.010] 40-108.010. **The director has sole discretion to approve, deny, or modify any requests for funds under this regulation. The director may not approve any requests for funds if funding is unavailable. Availability of funds will be determined by the director.**

[(5)](4) [Expenditures of Incentives. Incentives received by counties under the old formula may be used by the counties at their discretion.] Incentives received by counties [under the new formula] must be reinvested into the IV-D program.

[(6)](5) Performance Audits. Counties must pass performance audits conducted by the division pursuant to 13 CSR [30-2.010] 40-108.010 or submit corrective action plans approved by the director to receive full [incentives] allotment. Counties that fail to [achieve] successfully comply with approved corrective action plans shall be subject to reductions of their [incentives] allotment. These reductions will be at four percent (4%) of the previous base year's expenses for the first failure, eight percent (8%) for the second consecutive failure, and sixteen percent (16%) for the third consecutive failure and subsequent failures; these reductions will begin upon failure to achieve corrective action plans.

**AUTHORITY:** sections 454.400[.2(5)] and 660.017, RSMo [Supp. 1999] 2016. Original rule filed Feb. 3, 2000, effective Sept. 30, 2000. Moved and amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division [30] 40—[Child Support Enforcement]**  
**Family Support Division**  
**Chapter [10] 110—Fees**

**PROPOSED AMENDMENT**

**13 CSR [30-10.010] 40-110.040 Annual Fee.** The division is moving this rule to a new division and chapter and amending the purpose and all sections of this rule.

**PURPOSE:** This amendment updates terminology, and defines two (2) new terms "obligor" and "obligee." It also moves the rule from Title 13 Division 30-Child Support Enforcement to Title 13, Division 40-Family Support Division.

**PURPOSE:** The purpose of this rule is to define how the Family Support Division [of Child Support Enforcement] will collect an annual processing fee [against persons] from an obligee on a non-IV-D case who receives support payments that are processed by the Family Support Payment Center.

(1) Definitions. For the purposes of this rule, the following definitions are applicable:

(A) "Division" means the Family Support Division [of Child Support Enforcement];

(B) "Payment Center" means the Family Support Payment Center;

(C) [TANF means Temporary Assistance for Needy Families] "Support" means any financial support due for the support or maintenance of a child, or the custodian of a child, or a spouse or ex-spouse based upon a judicial or administrative order;

(D) "Case" means a family, as used in section 454.425, RSMo [2000], associated with a particular support order(s). A case includes a collection of people, generally, a [custodian] obligee, and dependent(s) associated with an [specific noncustodial parent] obligor;

(E) [IV-D means part IV-D of the Social Security Act] "Obligor" means a person who owes a duty of support as determined by a court or administrative agency of competent jurisdiction;

(F) [Support means any financial support, which is due for the support or maintenance of a child or the custodian of a child or a spouse or ex-spouse based upon a judicial or administrative order] "Obligee" means a person to whom a duty of support is owed as determined by a court or administrative agency of competent jurisdiction; and

(G) "Non-IV-D case" is a case as defined above which is not currently receiving [TANF, Medicaid, foster care or] child support services pursuant to section 454.400[(14)], RSMo [2000].

(2) Annual Fees. The division will collect an annual processing fee of ten dollars (\$10) on each order associated with a non-IV-D case in which payments are being received by and processed through the Payment Center for all or any part of a calendar year. If an order is associated to more than one (1) case, all cases must be non-IV-D cases.

(A) The [person obligated to pay support] obligor will receive credit against [such person's] the support obligation for the entire

payment received by the Payment Center. The fee will be collected from the *[person entitled to receive support]* obligee.

(B) **The fee will be deducted from the first support payment received in each calendar year by the Payment Center** *[P]rior to disbursement [to the person entitled to receive support, the fee will be collected from the first support payment processed by the Payment Center for each calendar year] of the payment to the obligee.* If the first support payment processed for the calendar year by the Payment Center does not satisfy the annual fee, the balance remains due and will be collected from subsequent support payments received for that calendar year until the entire fee is satisfied. If the fee is not satisfied by the end of a calendar year, the uncollected fee for that year will not accrue into the next calendar year.

(C) An annual fee will be charged in a former TANF or Medicaid case if all arrearages owed to the state have been paid and child support services pursuant to section 454.400~~[(14)]~~, RSMo [2000], are not currently being provided.

*AUTHORITY: sections 454.400[.2(5)] and 660.017, RSMo [2000] 2016. This rule originally filed as 13 CSR 30-10.010. Original rule filed July 17, 2001, effective Jan. 30, 2002. Moved and amended: Filed Aug. 8, 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: The proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES Division 35—Children’s Division Chapter 31—Child Abuse

### PROPOSED AMENDMENT

**13 CSR 35-31.015** *[Investigations Involving a Conflict of Interest] Out-of-Home Investigation Unit.* The department is amending sections (1) and (2), subsections (1)(A) through (D), (2)(A) through (C), and deleting section (3).

*PURPOSE: The department has made changes to this regulation to more accurately reflect the work conducted by the Out-of-Home investigation Unit. The amendments to section (1) incorporate definitions of “Family or Family Member,” “Family Assessment,” and “Investigation,” as well as amending the definition of “Out-of-Home Investigation Unit” to include assessments. Section (2) has been updated to reflect that the Out-of-Home Investigation Unit conducts investigations and assessments on a broader scope of cases than was previously outlined.*

(1) Definitions. **For the purpose of this regulation, the following terms shall be defined as follows:**

(A) **Family or Family Member.** A person related to the alleged victim by blood, adoption, or affinity within the third degree, a current or past foster parent of the alleged victim, or a resident of the current or past foster parent’s home;

(B) **Family Assessment.** An approach to be developed by the

children’s division which will provide for a prompt assessment of a child who has been reported to the division as a victim of abuse or neglect by a person responsible for that child’s care, custody, or control and of that child’s family, including risk of abuse and neglect and, if necessary, the provision of community-based services to reduce the risk and support the family;

(C) **Investigation.** The collection of physical and verbal evidence to determine if a child has been abused or neglected; and

~~[(A)](D) Out-of-Home Investigation Unit[-].~~ The unit of investigators responsible for investigating or assessing child abuse and neglect when the relationship between the child and the alleged perpetrator is established in an out-of-home setting.

(2) *[The following categories of persons, when reported as either the victim or alleged perpetrator of child abuse or neglect, may be considered to have such a relationship to the Children’s Division that a thorough investigation might be hindered by a conflict of interest:] The Out-of-Home Investigation Unit will investigate or assess allegations of child abuse or neglect in—*

(A) *[An employee of the Children’s Division, the Department of Social Services central office or other Department of Social Services employees located in a Children’s Division office] Cases in which the alleged victim resides in a foster home;*

(B) *[The immediate family or household member of that employee; or] Cases in which the alleged perpetrator is an employee, contracted agent, or volunteer of an organization which provides care or services to children. Such organizations shall include, but are not limited to, residential treatment facilities, schools, child care facilities, hospitals, youth camps, or youth groups; or*

(C) *[Children placed in foster care and in the custody of the Children’s Division when the alleged perpetrator is a licensed foster parent These calls will be investigated by the Out-of-Home Investigation Unit] Other cases as deemed necessary by the Children’s Division on a case-by-case basis.*

*[(3) Reports of abuse or neglect involving those persons, either as victims or perpetrators, shall be made to the Child Abuse and Neglect Unit in the central office of the Children’s Division. The Child Abuse and Neglect Unit will assign the report to the Children’s Division county/circuit staff selected by the regional office to initiate and conduct the investigation.]*

*AUTHORITY: sections 207.020 and 660.017, RSMo [Supp. 2014] 2016. This rule originally filed as 13 CSR 40-31.011. Original rule filed March 7, 1984, effective June 11, 1984. Moved to 13 CSR 35-31.015 and amended: Filed July 29, 2015, effective Feb. 29, 2016. Amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 2—Income Maintenance**

**PROPOSED AMENDMENT**

**13 CSR 40-2.050 Definition of Earned Income.** The division is amending subsections (1)(A) and (C).

*PURPOSE:* This amendment updates the names of programs administered by the division.

(1) In applying the earned income exemptions, as stated in section 209.240, RSMo, to an applicant for, or a recipient of, **Supplemental Aid to the Blind** and as stated in section 208.010, RSMo for an applicant for or recipient of *[Old Age Assistance]* **MO HealthNet for the Aged, Blind, and Disabled (MHABD)** or an applicant or recipient of *[Aid to Dependent Children]* **Temporary Assistance for Needy Families (TANF)**, the following definition of earned income will be used:

(A) The term earned income encompasses income in cash or in kind earned by a needy individual through the receipt of wages, salary, commissions, or profit from activities in which s/he is engaged as a self-employed individual or an employee. The earned income may be derived from his/her own employment, such as business enterprise or farming, or derived from wages or salary received as an employee. It includes earnings over a period of time for which settlement is made at one (1) given time, as in the instance of sale of farm crops, livestock, or poultry. In considering income from farm operation, the option available for reporting under *[Old Age Supplemental]* **Social Security Disability Income**, namely the cash receipts and disbursements method, that is, a record of actual gross, of expenses and of net, is an individual determination and is acceptable also for public assistance. With reference to commissions, wages, or salary, the term earned income means the total amount, irrespective of personal expenses, such as income tax deductions, lunches, and transportation to and from work. With respect to self-employment, the term earned income means the total profit from business enterprise, farming, and the like, resulting from a comparison of the gross income received with the business expenses, that is, total cost of the production of the income. Personal expenses, such as income tax payments, lunches, and transportation to and from work, are not classified as business expenses;

(C) With regard to the degree of activity, earned income is income produced as a result of the performance of services by a recipient; in other words, income which the individual earns by his/her own efforts, including managerial responsibilities, would be properly classified as earned income, such as management of capital investment in real estate. Conversely, for example, in the instance of capital investment where the individual carries no specific responsibility, such as where rental properties are in the hands of rental agencies and the check is forwarded to the recipient, the income would not be classified as earned income. In households where a/n/ **Supplemental Aid to Blind** or *[Old Age Assistance]* **MHABD** claimant is entitled to an income exemption and where other persons are receiving other types of assistance, the exempted income also shall be disregarded in determining the need of the other persons for public assistance.

*AUTHORITY:* sections [207.020,] **207.022 and 660.017, RSMo [1986] 2016.** Original rule filed Sept. 26, 1951, effective Oct. 6, 1951. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 2—Income Maintenance**

**PROPOSED AMENDMENT**

**13 CSR 40-2.100 Definitions Relating to PTD.** The division is removing an authority reference.

*PURPOSE:* This amendment removes a case reference in the statutory rulemaking authority section of this rule.

*AUTHORITY:* sections [207.020,] **207.022 and 660.017, RSMo [1986] 2016.** Original rule filed Nov. 1, 1950, effective Nov. 11, 1950. Amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter [3] 108—[County Reimbursement]  
Child Support Program, Counties under Cooperative  
Agreement**

**PROPOSED AMENDMENT**

**13 CSR 40-[3]108.020 Minimum Record-Keeping Requirements for County Reimbursement and Standardization of Claims Submissions.** The division is moving this rule to chapter 108.

*PURPOSE:* This amendment moves this rule from chapter 3 to chapter 108. This will allow it to be grouped with the other rules regarding child support.

*AUTHORITY:* sections 454.400 and **660.017, RSMo [2000] 2016.** This rule originally filed as 13 CSR 30-3.020. Original rule filed Oct. 18, 1988, effective Jan. 13, 1989. Moved to 13 CSR 40-3.020 and amended: Filed Nov. 26, 2008, effective June 30, 2009. Moved to 13 CSR 40-108.020 and amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 7—Family Healthcare**

**PROPOSED AMENDMENT**

**13 CSR 40-7.020 Household Composition.** The division is amending section (1).

**PURPOSE:** This amendment clarifies the Household Composition Standard for Family MO HealthNet programs and the Children's Health Insurance Program (CHIP) for those under nineteen (19). The federal rules on this have been in effect prior to 2014.

(1) A household shall include the taxpayer, or in the case of a joint return, taxpayers, and all tax dependents.

**(D) In the case of a participant taxpayer under age nineteen (19), who resides with his or her parents, the household shall be determined in accordance with section (3) of this rule.**

**AUTHORITY:** sections [207.020, RSMo 2000, and section 208.991,] 207.022 and 660.017, RSMo [Supp. 2013] 2016. Original rule filed July 31, 2013, effective Feb. 28, 2014. Amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES  
Division [40] 35—[Family Support Division]  
Children's Division  
Chapter [30] 35—[Permanency Planning for Children]  
Alternative Care**

**PROPOSED AMENDMENT**

**13 CSR [40-30.010] 35-35.050 Case Plan.** The division is moving the division and chapter location, and amending the purpose, and sections (3) and (4).

**PURPOSE:** This amendment will change language to reflect the proper division, and move the regulation into the correct chapter.

**PURPOSE:** This rule requires the establishment of a case plan for every child in the custody of [Division of Family Services] Children's Division or receiving social services from the [Division of Family Services] Children's Division. It also provides a definition of a case plan as well as describing the required content and time periods for development and review of the case plan.

(3) The term case plan means a written document which describes social and child welfare services and activities to be provided by the division and other local community agencies for the purpose of achieving a permanent familial relationship for the child [as described in 13 CSR 40-30.010(1)].

(4) This case plan shall include, at a minimum, the following information:

(D) A statement of the intended plan for permanency for the child which shall consist of one (1) of the following:

1. Maintain the child with the biological parents;
2. Reunify the child with his/her biological family if a judicial determination has been made for the child to be removed from the custody of the parent(s) and placed in [an] alternate care [facility];
3. Place the child for the purpose of **guardianship or** adoption;

or

4. Maintain the child in a long-term separation from his/her biological parents with an agreed upon plan with the care provider. This provision applies only if a child is over sixteen (16) years of age;

**AUTHORITY:** sections 207.020 and 660.017, RSMo [1986] 2016. This rule originally filed as 13 CSR 40-30.010. Original rule filed June 28, 1983, effective Nov. 11, 1983. Moved and amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES  
Division [45] 5—[Division of Legal Services]  
Office of the Director  
Chapter 2—State Technical Assistance Team**

**PROPOSED AMENDMENT**

**13 CSR [45] 5-2.010 Organization and Operation.** The department is moving the rule, amending the purpose and sections (1)–(5), and deleting forms within the rule.

**PURPOSE:** The purpose of this amendment is to codify the move of the State Technical Assistance Team to the Director's Office, to modernize the language, and to incorporate current practices.

**PURPOSE:** This rule describes the general organization and function

of the State Technical Assistance Team including its responsibilities in providing technical assistance to the multidisciplinary child protection members of the Child Fatality Review Program (CFRP) panels in investigating and prosecuting cases involving child abuse, child neglect, child sexual abuse, child exploitation, or child fatality review. This rule also establishes and describes the functions of local (county) CFRP panels, as well as the state CFRP panel in this child protective services process.

(1) General Provisions and Authority. This rule is promulgated under the rulemaking authority granted to the Department of Social Services (DSS) pursuant to section 660.017, RSMo. Pursuant to Article IV, Section 37 of the *Missouri Constitution*, the director of the Department of Social Services is charged with promoting improved health and other social services to the citizens of the state as provided by law. Section 660.010.2, RSMo, authorizes the DSS director to coordinate the state's programs devoted to those who are unable to provide for themselves and for victims of social disadvantage. Section 660.012.2, RSMo, also entrusts the DSS director with the duty to use the resources allocated to the department to provide comprehensive programs and leadership in order to improve services and economical operations. To that end, the DSS director has determined that the [transfer of the] State Technical Assistance Team (STAT) [from the Division of Family Services (DFS) to the Division of Legal Services (DLS)] under the Office of the Director (OD) improves the efficiency and economical operations of resources and maximizes services to the citizens of this state. This rule recognizes that [the transfer of] STAT [from DFS to DLS has been accomplished and such rule] also provides a mechanism for the promulgation of procedures setting forth the function, general organization, and operation of the State Technical Assistance Team. As a unit of the [Division of Legal Services] Office of the Director, STAT is responsible for performing its duties related to child fatality review pursuant to sections 210.192 to 210.196, RSMo and its duties related to providing assistance to multidisciplinary teams and law enforcement agencies in investigating and prosecuting cases involving child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality as prescribed in sections 660.520 to 660.527, RSMo. In performing its CFRP mission, STAT is responsible for providing training, expertise, and assistance to county CFRP panels for the review of child fatalities including establishing procedures for the [preparation and submission of] collection and data entry into the national child death review Internet-based case reporting system, and preparation and submission of a Final Report by CFRP panels as reflected in subsection (4)(K) of this rule.

(2) Definition[s].

[A] Child abuse means any physical injury or emotional abuse inflicted on a child other than by accidental means by another person, except that discipline, including spanking, administered in a reasonable manner, shall not be construed to be abuse.

[B] Child exploitation means allowing, permitting or encouraging a child, under the age of eighteen years, to engage in prostitution or sexual conduct, as defined by state law, by a person responsible for the child's welfare or any other person involved in the act, and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming or depicting of a child, under the age of eighteen years, or the possession of such items, as those acts are defined by state law, by a person responsible for the child's welfare or any other person involved in the act.]

[C]/(A) Child fatality means the death of a child under the age of eighteen years, as a result of any natural, intentional, or unintentional act.

[D] Child neglect means the failure to provide, by those responsible for the care, custody and control of the child, the proper or necessary support, education as required by law,

nutrition or medical, surgical or any other care necessary for the child's wellbeing.

[E] Child sexual abuse means to engage in sexual intercourse or deviate sexual intercourse with a child or any touching of a child with the genitals, or any touching of the genitals, or anus of the child by another person, when the child is a person under the age of seventeen years.]

(3) State Technical Assistance Team.

(A) The State Technical Assistance Team shall assist in the investigation of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality cases upon the request of:

1. A federal, state, or local law enforcement agency;
2. [Prosecuting attorney] A county, state, or federal prosecutor;
3. [Division of Family Services] Children's Division staff;
4. A representative of the family courts;
5. Medical examiner;
6. Coroner; or
7. Juvenile officer.

(B) Upon being requested to assist in an investigation, the State Technical Assistance Team shall notify all parties specified in subsection (3)(A) of STAT's involvement in the investigation via [U.S. Postal Service] email or personal contact.

(C) Where STAT's assistance has been requested [by a local law enforcement agency], STAT investigators, [certified] licensed as peace officers by the director of the Department of Public Safety pursuant to Chapter 590, RSMo, shall be deemed to be peace officers within the [jurisdiction of the requesting law enforcement Agency, while acting at the request of the law enforcement agency] state of Missouri. The power of arrest of a STAT investigator, acting as a peace officer, shall be limited to offenses involving child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality or in situations of imminent danger to the investigator or another person. STAT investigators are authorized to carry firearms as noted in Chapter 571.030, RSMo, both on or off duty.

(D) STAT shall assist county multidisciplinary teams in the development and implementation of protocols for the investigation and prosecution of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality cases.

(4) Local (County) Child Fatality Review Program (CFRP) Panels.

(A) The prosecuting attorney, or circuit attorney, or upon vacancy of the CFRP chairpersonship, shall convene a local CFRP panel in each of the state's one hundred fourteen (114) counties and St. Louis City to review suspicious child deaths.

(C) The local CFRP panel will review all deaths of children less than eighteen (18) years of age at the time of their death where one or more of the following factors are present:

1. Sudden, unexplained death of a child under age one (1) year;
2. Unexplained/undetermined manner;
3. [DFS] Children's Division reports on decedent or other persons in the residence;
4. Decedent in [DFS] Children's Division or Division of Youth Services' custody;
5. Possible inadequate supervision of the decedent;
6. Possible malnutrition or delay in seeking medical care;
7. Possible suicide;
8. Possible inflicted injury;
9. Firearm injury;
10. Injury not witnessed by person in charge of child at time of injury;
11. Confinement;
12. Suspicious/criminal activity;
13. Drowning;
14. Suffocation or strangulation;
15. Poison/chemical/drug ingestion;

16. Severe unexplained injury;
17. Pedestrian/bicycle/driveway injury;
18. *[Drug/alcohol-related v]* Vehicular injury;
19. Suspected sexual assault;
20. Fire injury;
21. Autopsy by certified child death pathologist;
22. Panel discretion;
23. Other suspicious findings (injuries such as electrocution, crush or fall).;

**24. Other suspicious child deaths in family/household; or**

**25. Animal-related death.**

(D) The local CFRP panel at least shall review the following information on all suspicious deaths:

1. Findings from interviews, history, or death-scene investigation;
2. Physical evidence at the scene of injury, death, or both;
3. Findings from physical and medical examinations;
4. Findings from autopsy, radiological examination, and laboratory evaluation;
5. Reports of investigation/evaluation; *[and]*
6. Relevant past history/agency involvement.;
7. **Community services that may be offered to the family and/or community; and**
8. **Prevention actions or best practices to prevent future deaths.**

(E) The *[director of DSS] Children's Division* shall appoint regional coordinators to serve as resources to local CFRP panels. The regional coordinators will provide the following services:

1. Consultation and technical assistance; **and**
2. *Training; and*
3. *[Reviewing forms and p]* Provide recommendations on procedures developed by local panels.

(F) Initially, all panel members will be appointed by the prosecuting attorney. Subsequent appointments will be made by the chairperson **and require majority approval of the core panel members**. All members who represent a governmental agency defined as mandatory in this section will serve as long as they hold the position which made them eligible for appointment to the local CFRP panel. All other members shall serve a term which is defined in the procedures developed by the local panel. The local procedures *[also]* shall **also** define the selection and removal processes for non-core members. The chairperson shall be elected by the review panel. The chairperson and all other members may be reappointed for consecutive terms. The local CFRP panel shall include, but not be limited to, the following core members:

1. The prosecuting or circuit attorney;
2. Medical examiner/coroner;
3. A law enforcement officer;
4. A representative of the *[DFS] Children's Division*;
5. A provider of public health services;
6. A representative of the juvenile court; and
7. A representative of emergency medical services.

**Optional panel members may also serve either temporarily, based upon their knowledge or expertise in the type of child death being reviewed; or regularly, as other professionals or citizens with special interest in child abuse and neglect, based upon continued approval of the core panel members.**

(G) If the county of residence, illness/injury/event, or death are different, the CFRP panel in the county where the illness/injury/event occurred shall review the death.

1. The activated review panel may communicate with the chairperson of the CFRP panel in the county of residence and death, if different, to request necessary information.
2. The review panel in the county of death, residence, or both, may choose to review the death.
3. *[The Coroner/Medical Examiner Data Report (Data Form 1), which is hereby incorporated by reference as part of this rule]* **The national center for fatality review and prevention Internet-based case reporting system - case report**, must be

completed on all children ages birth through seventeen (0-17) who die in Missouri, regardless of state of residence.

4. Children injured out of state, who die in Missouri, may be reviewed at the sole discretion of the county panel, regardless of state of residence.

(I) *[DLS] STAT* will not reimburse or compensate a county CFRP panel for expenses associated with review panel business. Expenses may be reimbursed consistent with state travel rules and limitations for required participation of *[DLS] STAT* panel members *[in training] for review and panel training purposes. [DFS] STAT* will be responsible for payment of expenses, subject to state travel rules and limitations, and compensation for its employees who are members of a review panel.

(J) The following process will be followed by the county CFRP panels:

1. Any police officer, sheriff, law enforcement officer or official, physician, coroner/medical examiner, funeral director, hospital personnel, or any person having knowledge that a person less than eighteen (18) years of age has died, shall notify the coroner or medical examiner immediately in the county of *[injury] death*.

A. If the coroner or medical examiner in the county of death or residence is notified of a death, s/he shall notify the coroner or medical examiner immediately in the county of illness/injury/event, if different.

B. If the coroner or medical examiner in the county of illness/injury/event determines that the death of the person under age eighteen (18) does not exhibit any suspicious circumstances as described in this section, the *[panel chairperson will be responsible for cosigning Data Form 1, which is incorporated by reference as part of this rule, and shall forward the form within forty-eight hours to the DSS, STAT.] coroner/medical examiner will be responsible for notifying the panel chairperson of the death within seventy-two (72) hours and completing the appropriate sections of the national center for fatality review and prevention Internet-based case reporting system - case report and circumstances*. If the chairperson disagrees with the coroner or medical examiner regarding the nature of the death and desires a review, the review panel can be activated.

C. The coroner or medical examiner in the county of illness/injury/event shall notify a certified child death pathologist to determine the need for an autopsy. If there is disagreement, the certified child death pathologist shall make the determination, unless the CFRP panel, within *[twelve (12)] twenty-four (24) hours*, decides against the certified child death pathologist.;

D. If the coroner or medical examiner determines that the child died from natural causes while under medical care, such coroner or medical examiner shall notify *[DFS] Children's Division (Central Registry Unit, "Child Abuse/Neglect Hotline"—800-392-3738 or by online system for reporting child abuse and neglect)*. In all other cases, the medical examiner or coroner shall immediately notify *[DFS] the Children's Division* of the child's death, as required by section 58.452, RSMo.;

2. The coroner or medical examiner in the county of illness/injury/event shall notify the chairperson of the CFRP panel immediately if the death is suspicious;

3. Upon notification, the chairperson will activate the review panel within *[twenty-four] seventy-two (72) hours and schedule a meeting* to review the death.

A. Each member of the panel shall share information and records available to that panel member.

B. Each review panel shall operate the review based on procedures developed by the panel and based on guidelines and protocols developed by the DSS;

4. The review panel shall determine, at a minimum:

A. The place where the injury/illness causing a death occurred;

B. The manner and circumstances of the death;

C. Actions taken by the agencies/persons involved with the child and his/her family;

D. The identification of any siblings or other children in the home of the deceased child and whether they require protection; *and*

**E. The identification of services that can be provided to the family and/or community;**

**F. The identification of prevention actions and/or best practices that can prevent future child deaths; and**

*[E./G.* The identification of local systemic issues or policies which enhance or detract from efforts to assist in the investigation, treatment, or prevention of fatalities; and

5. The chairperson of the local CFRP panel will **review, update, and complete** *[Data Form 2, which is incorporated by reference as part of this rule, and forward it through to the DSS, STAT, for linkage with death certificates. This form must be sent]* **the national center for fatality review and prevention Internet-based case reporting system - case report that was initiated by the coroner or medical examiner, within sixty (60) days of the date of death, or within thirty (30) days of receipt of autopsy report, if child was autopsied.**

(K) Final Report.

1. In all cases reviewed by a CFRP panel, the CFRP shall, after completing the review, prepare a Final Report which shall consist of a summary of prevention conclusions and recommendations. The Final Report shall be submitted on a form referred to as the Child Fatality Review Panel Final Report (or Final Report), *which is incorporated by reference as part of this rule*. Pursuant to section 210.192.3, RSMo [2000], the Final Report issued by the panel is a public record and may be obtained by submitting a written request to the following address: State Technical Assistance Team, *[Division of Legal Services, 2724 Merchants Drive,]* **PO Box 208**, Jefferson City, MO 65109/2-0208.

2. The CFRP panel's Final Report will be forwarded directly to the State Technical Assistance Team, *[prevention coordinator,]* within ten (10) days of the **final** CFRP panel review, except in cases where criminal charges are being considered or pending. In those cases, the final report of the panel will be due within ten (10) days after a criminal indictment or information is filed in the case, or the local panel chair is notified of the prosecutor's decision not to file charges.

3. *[The prevention coordinator]* **STAT** will be a direct liaison with all CFRP panels, *[maintaining a prevention resource repository, and]* in providing **prevention resource** guidance and facilitation in the implementation of appropriate prevention strategies and responses.

4. Separate from data collected, *[the prevention coordinator]* **STAT** will track the effectiveness of various prevention responses to specific risks, and will make this information available to the state CFRP panel and appropriate supporting agencies.

(5) State Child Fatality Review Panel.

(A) The state CFRP panel shall be composed of a minimum of seven (7) members. All members will be appointed by the director of the DSS.

1. Members mandated by this rule to be members of this panel may serve as long as they hold the position which made them eligible for appointment.

2. The DSS shall establish procedures which define the terms for all members, reasons for the removal of members from the panel and how members will be appointed in the future.

3. The chairperson and all members may be reappointed for consecutive terms.

(B) The director of DSS shall appoint the following persons to serve on the state CFRP panel:

1. A prosecuting attorney or circuit attorney;
2. A coroner or medical examiner;
3. A law enforcement officer or official;
4. A representative from **[DFS] the Children's Division;**
5. A provider of public health care services;
6. A representative from the Department of Health and Senior

**Services;**

7. A representative of the juvenile court; and
8. A representative of emergency medical services.

(C) Other members of the state CFRP panel may include persons from the following agencies/groups:

1. Division of Youth Services;
2. Attorney General;
3. Missouri Juvenile Justice Association;
4. A physician experienced in examining and treating abused/neglected children;
5. Department of Mental Health;
6. Department of Public Safety;
7. Department of Elementary and Secondary Education;
8. Department of Corrections; and
9. Any other professionals or citizens with special interest in child abuse and neglect.

(D) The state CFRP panel will meet at least biannually. *[DLS/ STAT* may reimburse the members who are not division employees for reasonable expenses, consistent with state travel rules and limitations for expenses associated with review panel business held outside their county of residence, but will not provide for any other compensation. *[DFS] Children's Division* will be responsible for the reimbursement of expenses, subject to state travel rules and limitations, and compensation for its employees on the panel.

(E) The state CFRP panel shall review and discuss all relevant materials submitted by the *[local panels and the state implementation team]* **state CFRP panel members, the local CFRP panels, and STAT**. The purpose of the review will be to:

1. Review the findings of the county CFRP panels to determine the frequency and cause of child fatalities throughout the state;
2. Identify the appropriateness and comprehensiveness of current statutes, policies, and procedures relevant to the management of fatal abuse/neglect cases;
3. Review data collected by the DSS, STAT to determine the accuracy of identification of fatally abused and neglected children;
4. Review reports on the status of the operations of the county CFRP panels; and
5. Recommend prevention strategies after reviewing statewide trends and actions suggested by local panels.

(H) The state CFRP panel shall submit findings and recommendations to the director of DSS, the governor, the speaker of the house of representatives, the president *pro tempore* of the senate, and the children's services commission, juvenile officers, and chairperson of the local CFRP panels. At a minimum, the findings shall address the following issues:

1. The number of child fatality cases reviewed by county panels;
2. Non-identifying characteristics for perpetrators;
3. Non-identifying characteristics for deceased children;
4. The number of fatalities by cause(s) of death and whether death was attributable to child abuse/neglect;
5. Effectiveness of local panels; and
6. Systemic issues which need to be addressed through changes in policy, procedures, or statute.

*AUTHORITY: sections 210.192-210.196, 660.017, and 660.520-660.527[718], RSMo [2000] 2016. This rule originally filed as 13 CSR 45-2.010. Emergency rule filed Dec. 19, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed Dec. 19, 2000, effective June 30, 2001. Moved and amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—MO HealthNet Division**  
**Chapter 3—Conditions of Provider Participation,**  
**Reimbursement and Procedure of General Applicability**

**PROPOSED RULE**

**13 CSR 70-3.300 Complementary Medicine and Alternative Therapies for Chronic Pain Management**

*PURPOSE:* This rule establishes the MO HealthNet payment policy for the complementary medicine and alternative therapies for chronic pain management for adult Medicaid participants. The goal of this policy is to improve health outcomes and decrease opioid use by adult participants to manage chronic pain.

*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) Administration.

(A) This rule governs the practice of complementary medicine and alternative therapy for adult participants as a covered MO HealthNet benefit. The intent of this regulation is to provide complementary medicine and alternative therapy, coordinated by the prescribing provider, in an effort to provide alternatives to opioid use for the treatment of chronic pain, reduce opioid misuse, improve MO HealthNet participants' chronic pain management skills, reduce avoidable costs, and improve health outcomes.

(B) Alternative and complementary medical therapy for chronic pain management shall be administered by the Department of Social Services, MO HealthNet Division. The services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the division and shall be included in the *MO HealthNet Physician Provider Manual*, which is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website <http://www.dss.mo.gov/mhd> on August 15, 2018. This rule does not incorporate any subsequent amendments or additions.

(C) The following definitions will be used in administering this rule:

1. "Adult participant" means a person who is at least twenty-one (21) years of age or older and who is enrolled as a MO HealthNet participant;
2. "Complementary medicine and alternative therapy for chronic pain" combines the use of physical therapy, cognitive-behavioral therapy, chiropractic therapy, and/or acupuncture to promote chronic pain relief for adult participants;
3. "Physical therapy treatment for chronic pain" includes, but is not limited to, participant education and counseling, manual techniques, therapeutic exercises, electrotherapy, and massage;
4. "Cognitive-behavioral therapy for chronic pain" or "CBT" combines treatment of emotional thinking and behavioral health for

participants with chronic pain, trains in behavioral techniques, and helps patients modify situational factors and cognitive processes that exacerbate pain;

5. "Chiropractic therapy for the treatment of chronic pain" may include, but is not limited to, spinal manipulation or spinal adjustment;

6. "Acupuncture" involves the stimulation of specific points, including, but not limited to, through the insertion of thin needles at predetermined acupuncture points on the body;

7. "Prescribing provider" means a primary care physician licensed by the state of Missouri and authorized to prescribe medication or other therapy within the scope of such person's practice;

8. "Complementary medicine and alternative therapy provider" means a complementary medicine and alternative therapy care provider licensed by the state of Missouri and authorized to prescribe medication or other therapy within the scope of such person's practice;

9. "Risk Stratification" is the assigning of a risk level from low, to medium, to high, determined by the prescribing provider that evaluates an adult participant's severity of pain, as well as a participant's risk for worsening condition and/or opioid dependency;

10. "First-line non-opioid medication therapy" includes, but is not limited to, analgesics such as non-steroidal anti-inflammatory drugs (NSAIDs), acetaminophen, cyclooxygenase 2 (COX-2) inhibitors, SAM-E herbal therapy, topical analgesics, selected antidepressants, selected anticonvulsants, and/or muscle relaxer medication;

11. "Opioid medication therapy" includes any prescription drug, natural or synthetic, that binds to the brain's opioid receptors having an addiction-forming or addiction-sustaining ability, or being capable of conversion into a drug having such addiction-forming or addiction-sustaining ability;

12. "Chronic pain" means a non-cancer, non-end-of-life pain lasting more than three (3) months, or longer than the duration of normal tissue healing;

13. "Acute pain" means pain, whether resulting from disease, accidental or intentional trauma, or other cause, that the practitioner reasonably expects to last only a short period of time. Acute pain does not include chronic pain, pain being treated as part of cancer care, hospice or other end of life care, or pain being treated as part of palliative care;

14. "High dose opioid therapy" is to be considered as any therapy greater than ninety (>90) MME (morphine milligram equivalents) per day; and

15. "Spinal manipulation" and "spinal adjustment" are interchangeable terms that identify a method of skillful and beneficial treatment where a person uses direct thrust or leverage to move a joint of the patient's spine beyond its normal range of motion, but without exceeding the limits of anatomical integrity.

(2) Covered Services and Limitations of Complementary Medicine and Alternative Therapy for Chronic Pain Management.

(A) Participant eligibility.

1. To qualify for complementary medicine and alternative therapy for chronic pain, a MO HealthNet participant must be an adult participant with—

- A. Chronic non-cancer neck and/or back pain; or
- B. Chronic pain post traumatic injury, such as traumatic injury resulting from a motor vehicle collision; or
- C. Other chronic pain conditions as medically necessary.

2. A prescribing provider's referral to a complementary and alternative therapy provider is necessary for the adult participant to be eligible for complementary medicine and alternative therapy for chronic pain. The prescribing physician must prescribe the complementary medicine and alternative therapy in the adult participant's plan of care during a regular office visit.

(B) Provider qualifications.

1. To refer or provide complementary medicine and alternative therapy, the prescribing provider and the complementary medicine



and alternative therapy provider must be currently enrolled as a MO HealthNet provider and currently licensed in Missouri or a bordering state to provide therapy.

2. Both the prescribing provider and the complementary medicine and alternative therapy provider must meet the provider qualifications outlined in this regulation to deliver and bill for the service.

(C) Medical Services for Complementary Medicine and Alternative Therapy for Chronic Pain Management.

1. Adult participants may be referred by the prescribing provider for complementary medicine and alternative therapy to treat and manage chronic back pain, chronic neck pain, chronic pain resulting from a post-traumatic injury, or other chronic pain conditions as medically necessary.

2. The prescribing provider must seek prior authorization from the MO HealthNet Division prior to the adult participant starting complementary medicine and alternative therapy.

3. A prescribing provider's referral to a complementary and alternative therapy provider is necessary for the adult participant to be eligible for complementary medicine and alternative therapy.

4. The prescribing provider will perform an initial assessment and provide the adult participant evidence-based education regarding pain management during the adult participant's regular office visit.

5. The prescribing provider shall evaluate adult participants in the initial assessment for any potentially serious condition and refer the adult participant for further evaluation and/or diagnostic testing as medically necessary.

6. The prescribing provider shall document the injury, all tried and failed treatments, and shall submit any supporting documentation establishing that chronic pain treatment, or whether further chronic pain treatment, is medically necessary.

7. The prescribing provider will work in conjunction with the complementary medicine and alternative therapy provider(s) to make recommendations regarding medically necessary services based on clinical criteria and the adult participant's risk stratification.

A. Low risk level covered services and limitations.

(I) Complementary medicine and alternative therapy services for qualified, low risk level adult participants requires an assessment of risk and a determination by the prescribing provider of a combination of physical therapy, chiropractic therapy, acupuncture, and non-opioid medication therapy, as clinically appropriate.

(II) Complementary medicine and alternative therapy services shall be structured according to the prescribing provider's preference, but with an allowable maximum of four (4) total visits or sixteen (16) units per year, and with one (1) unit equaling fifteen (15) minutes in combination of therapy defined within the low risk level. The prescribing provider shall reassess evidence of the adult participant's improvement and the risks of complementary medicine and alternative therapy when considering discontinuing or requesting further coverage of complementary medicine and alternative therapies for chronic pain.

(III) An annual maximum of cognitive-behavioral health visits are to be determined based upon best practice and evidence-based guidelines and are listed in the MO HealthNet Physician Provider's Manual.

B. Medium to high risk level covered services and limitations.

(I) Complementary and alternative therapy services for qualified medium to high risk level adult participants requires an assessment of risk and determination by the prescribing provider of a combination of physical therapy, chiropractic therapy, acupuncture, non-opioid medication therapy, and opioid therapy, as clinically appropriate.

(II) Complementary and alternative therapy services shall be structured according to the provider's preference but with an allowable maximum of thirty (30) visits or one hundred twenty (120) units per year with one (1) unit equaling fifteen (15) minutes in combination of therapy defined within the medium to high risk level. The prescribing provider shall reassess evidence of the adult participant's improvement and the risks of complementary medicine and alternative therapy when considering discontinuing or requesting fur-

ther coverage of complementary medicine and alternative therapies for chronic pain.

(III) An annual maximum of cognitive-behavioral health visits are to be determined based upon best practice and evidence-based guidelines and are listed in the MO HealthNet Physician Provider's Manual.

8. Non-opioid and opioid therapy for chronic pain shall include initiating the first-line of non-opioid treatment, use of alternative pain therapy, establishing treatment goals, the use of opioids as supported by clinical guidelines, and the implementation of a tapering plan and schedule as clinically appropriate based upon the adult participant's clinical presentation. The prescribing provider shall document in the patient's medical record the method of tapering, progress, and challenges that may require intervention for participants currently receiving long-term opioid medications and/or high dose opioids on a clinically appropriate tapering plan.

9. Cognitive behavioral therapy for each adult participant must be re-assessed by a cognitive-behavioral therapy provider every ninety (90) days for continuation of care, including assessment of any impacts on the participant's ability to work and function, increased self-efficacy, or other clinically significant improvement.

10. The prescribing provider and the complementary medicine and alternative therapy provider shall re-assess and evaluate the risks and benefits to the adult participant of any complementary and alternative therapies and whether the therapies continue to be medically necessary and efficacious prior to continuing treatment, requesting further treatment, and/or discontinuing treatment as medically necessary.

A. Provider(s) of complementary medicine and alternative therapy will make recommendations for a treatment plan, continuation of services, and the final determination of care.

B. The complementary medicine and alternative therapy must be deemed medically necessary.

(3) Reimbursement Methodology.

(A) The maximum allowable fee for a unit of service shall be as determined by the MO HealthNet Division to be a reasonable fee, consistent with efficiency, economy, and quality of care. Payment for covered services is by fee schedule published at <http://www.dss.mo.gov/mhd/providers/index.htm>, and is effective for services provided on or after the effective date of the state plan amendment.

(B) Reimbursement shall only be made for services authorized by the MO HealthNet Division or its designee.

*AUTHORITY: sections 208.201 and 660.017, RSMo 2016. Original rule filed Aug. 15, 2018.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions \$3,745,082. The program is scheduled to begin July 1, 2018. General Revenue \$1,303,176 and Federal \$2,441,906. FY 2019 cost will be \$3,745,082.*

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.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.*

**FISCAL NOTE  
PUBLIC COST**

- I. Department Title:** 13 - Social Services
- Division Title:** 70 - MO HealthNet Division
- Chapter Title:** 3 - Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

|                              |  |
|------------------------------|--|
| <b>Rule Number and Name:</b> | 13 CSR 70-3.300 Complementary Medicine and Alternative Therapies for Chronic Pain Management |
| <b>Type of Rulemaking:</b>   | Proposed Rule  |

**II. SUMMARY OF FISCAL IMPACT**

| <b>Affected Agency or Political Subdivision</b>         | <b>Estimated Cost of Compliance in the Aggregate</b> |
|---|--|
| Department of Social Services,<br>MO HealthNet Division | FY19 - \$3,745,082                                   |

**III. WORKSHEET**

|                                   |             |
|-----------------------------------|-------------|
| General Revenue                   | \$1,303,176 |
| Federal                           | \$2,441,906 |
| Total annual cost for the program | \$3,745,082 |

**IV. ASSUMPTIONS**

The cost for this program would be for payments to eligible physical therapy, chiropractic, and acupuncture providers. The cost is based on providing services to 4,000 participants, utilizing different services or modalities, based on the risk to the participant.

It is anticipated this program will result in a savings to the state. The first year savings is estimated to be \$13,627,882. The net savings for the first year of the program would be \$9,882,800 (\$13,627,882 - \$3,745,082).

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—MO HealthNet Division**  
**Chapter 10—Nursing Home Program**

**PROPOSED AMENDMENT**

**13 CSR 70-10.120 Reimbursement for Nurse Assistant Training.**  
The division is removing sections (1) and (2) and amending and renumbering sections (3), (4), (5), and (6).

*PURPOSE: This rule is being amended to reflect the current state agency names, regulations, and terminology referenced in the rule.*

*[(1)] Authority. This rule established pursuant to the authorization granted to the Department of Social Services, Division of Medical Services (DMS) to promulgate rules.*

*(2) Purpose. This rule establishes a methodology for payment of nurse assistant training as required by Omnibus Budget Reconciliation Act (OBRA) 87.]*

*[(3)](1) Definitions.*

(A) “Nurse assistant training agency[.]” is [A]an agency which is approved by the [Division of Aging] Department of Health and Senior Services under [13 CSR 15-13.010(7)] 19 CSR 30-84.010(7).

(B) “Basic course[. The basic course shall mean the]” is the seventy-five (75) hours of classroom training, the one hundred (100) hours of on-the-job supervised training, and the final examination of the approved nurse assistant training course.

(C) “Challenge the final examination[. This shall]” means taking the final examination of the basic course without taking the entire basic course.

(D) “Cost report[.]” is [T]the Financial and Statistical Report for Nursing Facilities, required attachments, and all worksheets supplied by the division for this purpose per 13 CSR [70-10.010] 70-10.015. The cost report [shall] details the cost of rendering both covered and noncovered services for the fiscal reporting period in accordance with the procedures prescribed by the division, and on forms provided by and/or approved by the division.

(E) “Department of Health[.] and Senior Services” is [T]the department responsible for the survey, certification, and licensure as prescribed in Chapter 198, RSMo.

(F) “Desk audit[.]” is [T]the [Division of Medical Services] MO HealthNet Division or its authorized agent’s audit of a provider’s cost report without a field audit.

*[(G)] Division of Aging. The division of the Department of Social Services responsible for survey, certification and licensure as prescribed in Chapter 198, RSMo.]*

*[(H)](G) “Division[.],” [U]unless otherwise specified, [division] refers to the [Division of Medical Services, the] Department of Social Services, MO HealthNet Division that is charged with administration of Missouri’s Medical Assistance (Medicaid) Program.*

*[(I)](H) “Facility fiscal year[.]” is [A]a facility’s twelve- (12-)/- month fiscal reporting period covering the same twelve- (12-)/- month period as its federal tax year.*

*[(J)](I) “Field audit[.]” is [A]an on-site audit of the nursing facility’s records performed by the department or its authorized agent.*

*[(K)](J) “Nursing facility (NF)[.]” is, [E]effective October 1, 1990, skilled nursing facilities, skilled nursing facilities/intermediate care facilities and intermediate care facilities as defined in Chapter 198, RSMo participating in the Medicaid Program will all be subject to the minimum federal requirements found in section 1919 of the Social Security Act.*

*[(L)](K) “Occupancy rate[.]” is [A]a facility’s total actual patient days divided by the total bed days for the same period as determined from the desk audited and/or field audited cost report.*

*[(M)](L) “Patient day[.]” is [T]the period of service rendered to a patient between the census-taking hour on two (2) consecutive days. Census shall be taken in all facilities at midnight each day and a census log maintained in each facility for documentation purposes. Patient day includes the allowable temporary leave-of-absence days per 13 CSR 70-10.015(5)(D) and hospital leave days per 13 CSR 70-10.070. The day of discharge is not a patient day for reimbursement purposes unless it is also the day of admission.*

*[(N)](M) “Provider or facility[.]” is [A]a nursing facility with a valid Medicaid participation agreement with the Department of Social Services for the purpose of providing nursing facility services to Title XIX-eligible recipients.*

*[(4)](2) General Principles.*

(A) Provisions of this reimbursement plan shall apply only to nursing facilities with valid provider agreements certified by the [Division of Aging or the Department of Health] Department of Social Services, Missouri Medicaid Audit and Compliance (MMAC) for participation in the Missouri Medical Assistance (Medicaid) Program.

(C) Program Approval—The [Division of Aging] Department of Health and Senior Services will approve or disapprove nurse assistant training programs in the state of Missouri. If the [Division of Aging] Department of Health and Senior Services withdraws approval of a formerly approved nurse assistant training program, the facility may continue to teach (and bill [DMS] MO HealthNet for) those nurse assistants who had already begun the training program. However, that facility may not begin training (or bill the division) for any additional nurse assistants until it again receives approval from the [Division of Aging] Department of Health and Senior Services. Nursing facilities receiving a “level A” violation or extended or partially extended survey will be ineligible for reimbursement for a period of two (2) years after the date of exit interview by the [Division of Aging] Department of Health and Senior Services.

(D) Training Agencies—Any nurse assistant training agency must be approved by the [Division of Aging] Department of Health and Senior Services per [13 CSR 15-13.010(7)] 19 CSR 30-84.010(7). This training agency must provide seventy-five (75) classroom hours of instruction and one hundred (100) hours on-the-job training. The seventy-five (75) classroom hours of instruction may include lecture, discussion, video/film usage, demonstration, and return demonstration by an approved registered nurse (RN) instructor who remains with and is always available to students to answer questions and to conduct the class. The one hundred (100) hours on-the-job training shall be done by an approved RN or licensed practical nurse (LPN) who meets [13 CSR 15-13.010] 19 CSR 30-84.010 clinical supervisor qualifications and who directly observes their skills when checking their competencies. The one hundred (100) hours on-the-job training shall be devoted to the student; and the clinical supervisor or instructor must not have other job duties at the same time, such as but not limited to, charge nurse duties, medication pass duties and/or treatment duties. The facility will not be reimbursed in the per-diem rate for the salary/fringes of the RN and/or LPN for time spent teaching the nurse assistant training program.

(E) Medicaid Cost Reports—Costs for nurse assistant training and competency evaluations are to be reported in the [unallowable] non-allowable column on the Medicaid cost report and are not to be covered in the per-diem rate. These costs include: any charge for training by an outside training agency, the cost of the competency evaluation, teacher salaries and fringes, necessary textbooks, and other required course materials. However, costs for salaries of nurse assistants in training or replacement nurse assistants for those in training or testing are to be reported in the allowable column on the Medicaid cost report and are to be covered in the per-diem rate.

(F) Billing—[Long-term care] Nursing facilities with valid provider agreements may bill the [Division of Medical Services] MO HealthNet Division for costs incurred for nurse assistant training and competency evaluations for nurse assistants beginning the training after February 26, 1993. Facilities may only bill for nurse

assistants trained by an approved training agency and tested by an approved state examiner. This state examiner must be approved per [13 CSR 15-13.010(9)] 19 CSR 30-84.010(9) and must have a signed agreement with the [Division of Aging] Department of Health and Senior Services. Facilities may bill once a month on an approved nurse assistant training billing form.

(G) Medicaid/[—] Utilization—Reimbursement will be allocated based on the ratio of Medicaid days to total patient days as reported on the latest Medicaid cost report filed by the facility with a year ending in the most recent year that all nursing facility Medicaid cost reports have been desk audited. If the facility did not have a Medicaid cost report ending in the most recent year that all nursing facility Medicaid cost reports have been desk audited, then the average ratio of Medicaid days to total patient days for all cost reports with ending dates in the most recent year that all nursing facility Medicaid cost reports have been desk audited will be used in calculating reimbursement.

[(5)](3) Reimbursement for Nurse Assistants Employed at the Time of Training. If a nurse assistant is employed at a nursing facility and then passes an approved nurse assistant training and competency evaluation program, the division will reimburse a facility if all the following criteria are met:

(A) The nurse assistant is on the Missouri [Division of Aging] Department of Health and Senior Services nurse assistant register;

(B) The individual is employed by the billing nursing facility at the time of passing the competency evaluation (final exam);

(C) The following reimbursement amounts will be prorated based on Medicaid utilization:

1. Three hundred sixty-five dollars (\$365) for a nurse assistant completing the entire basic course (all lesson plans, seventy-five (75) hours classroom training, and one hundred (100) hours on-the-job training) and passing the final exam;

2. A percentage of the three hundred sixty-five dollars (\$365) for nurse assistants who only complete a portion of the lesson plans and pass the final exam will be paid. The percentage will be based on how many lesson plans were completed. For example:

If no on-the-job training was provided, and if only lesson plans 1, 2, 4, 5, 6, 8, 9, 10, 11, 12, 41, 42, and 43 were completed, the percentage of the \$365 allowable would be:

\$ 34.50 classroom training  
 $((18.36/\text{hr} \times 75 \text{ hrs})/10) = \$138$   
 $\$138 \times 18.75 \text{ hours}/75 \text{ hrs} = \$34.50$   
 \$ 0.00 on-the-job training (0 of 100 hours)  
 \$ 30.00 textbook and supplies  
 \$ 50.00 testing fee  
 \$ 25.00 certification fee  
 \$139.50 allowable to be prorated on Medicaid utilization

3. Seventy-five dollars (\$75) for nurse assistants who do not complete any lesson plans through a challenge and pass the final exam;

(D) The facility which employs the nurse assistant must submit the bill for reimbursement to the division on the approved billing form; and

(E) The facility must bill for nurse assistant training and/or competency exam within one (1) year after the nurse assistant passed the final exam. Nurse assistant training that was completed prior to one (1) year before the effective date of this regulation and began after February 26, 1993, will be allowed.

[(6)](4) Reimbursement for Nurse Assistants Not Yet Employed at the Time of Training. If a nurse assistant is not employed at a nursing facility and that individual pays for the nurse assistant training and competency evaluation program, the division will reimburse a facility if all the following criteria are met:

(A) The nurse assistant is on the Missouri [Division of Aging]

Department of Health and Senior Services nurse assistant register;

(B) The individual is employed by the billing nursing facility not later than twelve (12) months after passing the final exam;

(C) The individual incurred costs for the training and testing, and the billing nursing facility submits to the division documentary evidence of those costs. The division will not reimburse costs if the nurse assistant received funding for the training through a grant or other funding source that is not required to be repaid by the nurse assistant;

(D) The billing nursing facility must submit documentation that it has paid the nurse assistant for the cost it is submitting to the division;

(E) The facility which employs the nurse assistant must submit the bill for reimbursement to the division on the approved billing form;

(F) The division will prorate costs based on Medicaid utilization as follows:

1. Three hundred sixty-five dollars (\$365) for a nurse assistant completing the entire basic course (all lesson plans, seventy-five (75) hours classroom training, and one hundred (100) hours on-the-job training) and passing the final exam;

2. A percentage of the three hundred sixty-five dollars (\$365) for nurse assistants who only complete a portion of the lesson plans and pass the final exam. The percentage will be based on how many lesson plans were completed. See paragraph [(5)](3)(C)2. of this regulation; and

3. Seventy-five dollars (\$75) for nurse assistants who do not complete any lesson plans through a challenge process and pass the final exam; and

(G) The [Division of Medical Services] MO HealthNet Division will subtract one-twelfth (1/12) of allowable reimbursement for each month that the nurse assistant is not employed after passing the final exam.

*AUTHORITY: sections [208.152,] 208.153, 208.159, [and] 208.201, and 660.017, RSMo [1994] 2016, and section 208.152, RSMo Supp. 2018. Original rule filed May 30, 1995, effective Dec. 30, 1995. Amended: Filed Feb. 15, 1996, effective Sept. 30, 1996. Amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES

### Division 110—Division of Youth Services

### Chapter 2—Classification Services and Residential Care

#### PROPOSED AMENDMENT

**13 CSR 110-2.060 Furlough Policies and Procedures.** The department is amending the purpose and sections (1), (3), and (4).

*PURPOSE: This amendment removes wording in the purpose that is outdated and not relevant, clarifies wording regarding notification to victims, updates outdated language, and clarifies that an apprehension request be issued for runaway youth who fail to return from furlough.*

*PURPOSE: Furloughs granted to youth residing in Division of Youth Services (DYS) facilities should be purposeful and constructive supplements to the treatment program [not a social rewards system]. Only through well-justified deliberation should furloughs be granted.*

(1) Requests for furloughs require verbal and written approval by the service coordinator with written notification to [required] identified officials, parent(s) or guardian(s), courts, and those that require notification under the law pertaining to victim's rights [respondents].

(3) A furlough authorization form should be prepared to accompany the youth. (The form should identify the youth, state the date, and purpose of [his/her] the furlough, and include the name and phone number of the DYS residential facility authorizing the furlough.)

(4) If a youth fails to return from a furlough at the designated time, [s/he should] the youth is required to call the DYS facility manager or the service coordinator to provide justification for [his/her] the delay and to establish an estimated time of return. If the youth does not notify the [facility] DYS facility manager or the service coordinator or fails to provide satisfactory justification for [his/her] the delay, [s/he shall be considered] the DYS facility manager or the service coordinator shall determine the youth to be a runaway and shall contact law enforcement and request the apprehension and detention of the youth pending the return of the youth to the division. The DYS facility manager or the service coordinator shall submit a critical incident [form shall be submitted] report.

*AUTHORITY: sections 219.036 and 660.017, RSMo [1994] 2016. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Amended: Filed Feb. 10, 2000, effective Aug. 30, 2000. Amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES  
Division 110—Division of Youth Services  
Chapter 2—Classification Services and Residential Care**

**PROPOSED AMENDMENT**

**13 CSR 110-2.120 Administrative Decisions Affecting the [Constitutional] Rights of Youth/s] in DYS Facilities.** The department is removing sections (1), (4), (6), and (7) and amending the title, purpose, and sections (2), (3), and (5).

*PURPOSE: This amendment removes the word constitutional from the title and purpose, removes section (1) because the division no longer utilizes the practice of administrative segregation of youth, amends sections (2), (3), and (5) to update outdated language, removes section (4) as it is adequately addressed in section 211.151.3, RSMo, removes sections (6) and (7) as they are unneces-*

*sary, and renumbers all remaining sections.*

*PURPOSE: [The purpose of t]This rule [is to] standardizes procedures and establishes safeguards for the youth in those areas of treatment where the [constitutional] rights of the youth in residence in a Division of Youth Services (DYS) facility may be an issue. These areas include: [transfers to administrative segregation or to a community detention facility;] mailing; [and] visitation privileges; [photographing and fingerprinting;] and containment; grievance procedure; and transfers from one DYS facility to another].*

*[(1) Transfers to administrative segregation or to community detention facility shall be made according to the following procedure:*

*(A) When any child is charged with an offense which may result in his/her confinement apart from the general population of the facility, in a separate room or cell or in a community detention facility where s/he is removed from the general population for over a twenty four (24)-hour period, s/he shall be afforded a hearing to determine guilt or innocence. This hearing shall be conducted as soon as possible but no later than within twenty-four (24) hours after initial confinement. The hearing shall be conducted by an impartial three (3) person panel of staff members not involved in the alleged offense;*

*(B) The child's parent or guardian, if known, will be advised in writing of the alleged offense and the disposition made of the charge; and*

*(C) Any child so segregated from the general population of the facility—*

*1. Shall be detained within calling distance of at least one (1) adult staff member at all times;*

*2. Shall be detained in clean quarters and be permitted to follow good personal hygiene;*

*3. Where feasible, s/he shall be permitted to pursue his/her educational program or keep up with his/her academic assignment;*

*4. Shall be allowed to wear normal casual clothing appropriate to the season;*

*5. Shall have access to reading material from the school and facility library;*

*6. Shall not have loss of mailing privileges; and*

*7. May be visited by his/her attorney and shall have access to chaplain or other designated minister or representative of his/her faith.]*

*[(2)](1) Mailing. The Division of Youth Services (DYS) reserves the authority to inspect mail of youth in DYS residential care facilities for the purpose of detecting contraband. Mail may be opened in the presence of the youth for this purpose only. Mail between [child] youth and attorney will not be subject to the inspection.*

*[(3)](2) Visitations. The Division of Youth Services recognizes the importance of family visits with the [child] youth as a means of maintaining and improving family relationships. Each Division of Youth Services residential facility shall establish a regular visiting schedule for the purpose of maintaining order in the treatment program. Each youth and [his/her] their family are to be advised in writing of the regular visiting hours at the time the youth is received at the facility.*

*[(4) Photographing and Fingerprinting. The division will comply with the letter, intent and spirit of the juvenile code, specifically section 211.151.3, RSMo Supp. 1999, which provides that law enforcement officers shall fingerprint and photograph youth who are taken into custody for offenses that would be considered felonies if committed by an adult without the approval of the juvenile court judge. Youth taken*

into custody for status offenses or as victims of abuse or offenses that would be considered a misdemeanor if committed by an adult may be fingerprinted and photographed with consent of the juvenile court judge.]

[(5)](3) Containment. Corporal punishment or physical abuse of a [child] youth shall not be permitted. Physical restraint, if necessary, may be used for the purpose of containment only and only then when the [child] youth being restrained is involved in a serious incident (for example, a youth assaults another person, damages property, hurts him/herself, or runs away). Failure of an employee to abide by this policy is cause for dismissal.

[(6) Grievance Procedure (see 13 CSR 110-2.100).

(7) Transfer from one DYS Facility to Another (see 13 CSR 110-2.050).]

**AUTHORITY:** sections 219.036, [and] 219.051, and 660.017, RSMo [1994] 2016. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Amended: Filed Feb. 10, 2000, effective Aug. 30, 2000. Amended: Filed Aug. 8, 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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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 2245—Real Estate Appraisers  
Chapter 1—Organization and Description of Commission**

**PROPOSED AMENDMENT**

**20 CSR 2245-1.010 General Organization.** The commission is amending section (9).

**PURPOSE:** This amendment changes the version of the Uniform Standards of Professional Appraisal Practice (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo.

(9) For purposes of this section, the Uniform Standards of Professional Appraisal Practice (USPAP), [2016] 2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at www.appraisalfoundation.org. This rule does not incorporate any subsequent amendments to USPAP.

**AUTHORITY:** sections 339.507, [RSMo Supp. 2014, section] 339.509, [RSMo Supp. 2013,] and [section] 339.544, RSMo [2000] 2016. This rule originally filed as 4 CSR 245-1.010. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Original rule filed Jan. 3, 1991, effective April 29,

1991. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. Amended: Filed Aug. 7, 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 Real Estate Appraisers Commission, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing comments to (573) 751-0038, or by emailing comments to reacom@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 2245—Real Estate Appraisers  
Chapter 3—Applications for Certification and Licensure**

**PROPOSED AMENDMENT**

**20 CSR 2245-3.005 Trainee Real Estate Appraiser Registration.** The commission is amending subsection (6)(B).

**PURPOSE:** This amendment changes the version of the Uniform Standards of Professional Appraisal Practice (USPAP) that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo.

(6) Training.

(B) The supervising appraiser(s) shall be responsible for the training, guidance, and direct supervision of the registrant by—

1. Accepting responsibility for the appraisal report by signing and certifying that the report complies with the Uniform Standards of Professional Appraisal Practice (USPAP), [2016] 2018 Edition. The USPAP, [2016] 2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at www.appraisalfoundation.org. This rule does not incorporate any subsequent amendments or additions to the USPAP;

2. Reviewing and signing the appraisal report(s) for which the registrant has provided appraisal services; and

3. Personally inspecting each appraised property with the registrant until the supervising appraiser determines the registrant trainee is competent, in accordance with the competency rule of USPAP. If applying for a residential certification, the supervising appraiser shall personally inspect fifty (50) properties with the registrant, unless otherwise waived by the commission for good cause. If applying for certified general, the supervising appraiser shall personally inspect twenty (20) nonresidential properties with the registrant, unless otherwise waived by the commission for good cause.

**AUTHORITY:** section 339.509(8), RSMo [Supp. 2013] 2016. Original rule filed Nov. 21, 2006, effective July 30, 2007. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. Amended: Filed Aug. 7, 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 Real Estate Appraisers Commission, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing comments to (573) 751-0038, or by emailing comments to [reacom@pr.mo.gov](mailto:reacom@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 2245—Real Estate Appraisers  
Chapter 3—Applications for Certification and Licensure**

**PROPOSED AMENDMENT**

**20 CSR 2245-3.010 Applications for Certification and Licensure.** The commission is amending subsection (5)(B).

*PURPOSE:* This amendment changes the version of the *Uniform Standards of Professional Appraisal Practice (USPAP)* that real estate appraisers are required to adhere to pursuant to section 339.535, *RSMo*.

(5) Prerequisite for Certification.

(B) State-Certified Residential Appraiser.

1. The prerequisite for certification as a state-certified residential appraiser shall be two thousand five hundred (2,500) hours of appraisal experience obtained continuously over a period of not less than twenty-four (24) months under the supervision of a state-certified real estate appraiser. Hours may be treated as cumulative in order to achieve the necessary two thousand five hundred (2,500) hours of appraisal experience, and there is no limitation on the number of hours which may be awarded in any year. Each applicant for certification shall furnish, under oath, a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commission a sample of appraisal reports which the applicant has prepared in the course of the applicant's appraisal practice. For the purposes of this section, "prepared" means the participation in any function of the real estate appraisal report. Education may not be substituted for experience except as allowed in section (8) of this rule. All experience shall have been obtained after January 30, 1989, and shall be *Uniform Standards of Professional Appraisal Practice (USPAP)* compliant. The *USPAP, [2016] 2018 Edition*, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments or additions to the *USPAP*. Acceptable appraisal experience as defined by the Appraiser Qualifications Board (AQB) includes, but is not limited to, the following (this should not be construed as limiting credit to only those individuals who are state-certified or state-licensed):

- A. Fee and staff appraisal;
- B. *Ad valorem* tax appraisal;
- C. Technical review appraisal;
- D. Appraisal analysis;
- E. Real estate consulting;

- F. Highest and best use analysis;
- G. Feasibility analysis/study; and
- H. Condemnation appraisal.

*AUTHORITY:* sections 339.509, 339.515, and 339.517, *RSMo [Supp. 2013] 2016*. This rule originally filed as 4 CSR 245-3.010. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. Amended: Filed August 7, 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 Real Estate Appraisers Commission, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing comments to (573) 751-0038, or by emailing comments to [reacom@pr.mo.gov](mailto:reacom@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 2245—Real Estate Appraisers  
Chapter 6—Educational Requirements**

**PROPOSED AMENDMENT**

**20 CSR 2245-6.040 Case Study Courses.** The commission is amending subsection (1)(B).

*PURPOSE:* This amendment changes the version of the *Uniform Standards of Professional Appraisal Practice (USPAP)* that real estate appraisers are required to adhere to pursuant to section 339.535, *RSMo*.

(1) General.

(B) Case study courses shall be at least thirty (30) hours of instruction. For each case study course, experience credit hours may not exceed three (3) times the education credit granted, and in no event shall the experience credit granted for a single course exceed ninety (90) hours. An applicant for licensure or certification may receive thirty (30) hours of pre-licensure education credit upon passage of an examination approved by the Appraiser Qualifications Board (AQB) course approval program or by an alternate method established by the AQB. A licensee may receive twenty-eight (28) hours of continuing education credit for a case study course as allowed pursuant to 20 CSR 2245-8.010. An applicant for licensure or certification will receive the experience credit upon completing one (1) or more *Uniform Standards of Professional Appraisal Practice (USPAP)* compliant appraisal reports for the course. The *USPAP, [2016] 2018 Edition*, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments or additions to the *USPAP*. The amount of

education and experience credit available from a case study course will be determined at the time it is approved by the AQB course approval program or by an alternate method established by the AQB.

**AUTHORITY:** section 339.509(3) and (4), RSMo [Supp. 2013] 2016. Original rule filed Nov. 21, 2006, effective July 30, 2007. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. Amended: Filed Aug. 7, 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 Real Estate Appraisers Commission, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing comments to (573) 751-0038, or by emailing comments to [reacom@pr.mo.gov](mailto:reacom@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 2245—Real Estate Appraisers  
Chapter 8—Continuing Education**

**PROPOSED AMENDMENT**

**20 CSR 2245-8.010 Requirements.** The commission is amending section (11).

**PURPOSE:** This amendment changes the version of the *Uniform Standards of Professional Appraisal Practice (USPAP)* that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo.

(11) All licensees of the state of Missouri shall complete, for continuing education credit, the seven- (7-) hour national *Uniform Standards of Professional Appraisal Practice (USPAP)* update course or its equivalent during each renewal cycle. The USPAP, [2016] 2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments or additions to the USPAP.

**AUTHORITY:** sections 339.509[, RSMo Supp. 2013,] and [section] 339.530, RSMo [2000] 2016. This rule originally filed as 4 CSR 245-8.010. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. Amended: Filed Aug. 7, 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 enti-

ties 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 Real Estate Appraisers Commission, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing comments to (573) 751-0038, or by emailing comments to [reacom@pr.mo.gov](mailto:reacom@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 2245—Real Estate Appraisers  
Chapter 8—Continuing Education**

**PROPOSED AMENDMENT**

**20 CSR 2245-8.030 Instructor Approval.** The commission is amending section (4).

**PURPOSE:** This amendment changes the version of the *Uniform Standards of Professional Appraisal Practice (USPAP)* that real estate appraisers are required to adhere to pursuant to section 339.535, RSMo.

(4) All instructors of the national *Uniform Standards of Professional Appraisal Practice (USPAP)* course, the national USPAP update course, or their equivalents shall be approved through the instructor certification program of the Appraisal Qualifications Board (AQB) or by an alternate method established by the AQB. The USPAP, [2016] 2018 Edition, is incorporated herein by reference and can be obtained from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, DC 20005, by calling (202) 347-7722, or at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). This rule does not incorporate any subsequent amendments or additions to the USPAP. At least one (1) instructor of the national USPAP course and the national USPAP update course shall be a state-certified appraiser and shall be approved through the AQB instructor certification program.

**AUTHORITY:** sections 339.509[, RSMo Supp. 2013,] and [section] 339.530, RSMo [2000] 2016. This rule originally filed as 4 CSR 245-8.030. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 7, 2018, effective Aug. 17, 2018, expires Feb. 28, 2019. Amended: Filed Aug. 7, 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 Real Estate Appraisers Commission, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing comments to (573) 751-0038, or by emailing comments to [reacom@pr.mo.gov](mailto:reacom@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.



**T**his section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 265—Division of Motor Carrier and Railroad Safety

#### Chapter 2—Practice and Procedure

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission rescinds a rule as follows:

#### **4 CSR 265-2.322** Approved Installation of Stop Signs at Highway-Rail Grade Crossings **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 742). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 265—Division of Motor Carrier and Railroad Safety

#### Chapter 8—Railroads and Street Railroads

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission rescinds a rule as follows:

#### **4 CSR 265-8.041** Required Equipment for Railroad Motor Cars **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 748-749). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 265—Division of Motor Carrier and Railroad Safety

#### Chapter 8—Railroads and Street Railroads

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission rescinds a rule as follows:

#### **4 CSR 265-8.050** Facilities for Employees **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 749). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received two (2) comments on the proposed rescission.

COMMENT #1: Jason Hayden, State Legislative Director for the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART), opposes rescission of this rule claiming there have been issues getting the Occupational Safety and Health Administration (OSHA) onto railroad company properties to assist with OSHA complaints. SMART says rule rescission would greatly inhibit SMART's ability to ensure continued upkeep of safe and sanitary railroad facilities for railroad employees. Instead of rescission, SMART recommends amending the rule to incorporate the OSHA regulations in Title 29, *Code of Federal Regulations* (CFR), Parts 1910, 1926, and 1928.

RESPONSE: The department believes the mandates in this rule primarily involve matters best handled in the private workplace between railroads and railroad employees and are already substantially included in the current OSHA regulations (29 CFR Parts 1910, 1926 and 1928). Portions of the rule are also already included in current FRA regulations, (Title 49 CFR, Part 229). No changes were made as a result of this comment.

COMMENT #2: Brian Kelley, Brotherhood of Locomotive Engineers and Trainmen (BLET) Missouri State Legislative Board Chairman, opposes rescission of this rule. BLET believes the department's reliance on federal OSHA regulations, as opposed to retaining the rule, is contrary to state legislators who oppose federal regulators interfering in state level matters. BLET asks the commission and department to respect this rule, which has been vetted and revised over many

decades. BLET notes the rule applies only to railroad employees and has little, if any, impact on the general public. BLET volunteers to update the rule to make logical/rationale changes, but does not provide specific changes BLET would recommend making.  
RESPONSE: The department believes the mandates in this rule primarily involve matters best handled in the private workplace between railroads and railroad employees and are already substantially included in the current OSHA regulations (29 CFR Parts 1910, 1926 and 1928). Portions of the rule are also already included in current FRA regulations, (Title 49 CFR, Part 229). No changes were made as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 265—Division of Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads and Street Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission rescinds a rule as follows:

**4 CSR 265-8.070** Grade Crossing Account **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 751). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 265—Division of Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads and Street Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission rescinds a rule as follows:

**4 CSR 265-8.090** Annual Report—State Statistics **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 753). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 265—Division of Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads and Street Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation

Commission under section 622.027, RSMo 2016, the commission rescinds a rule as follows:

**4 CSR 265-8.120** Hazardous Material Requirements **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 755). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 340—Division of Energy**  
**Chapter 2—Energy Loan Program**

**ORDER OF RULEMAKING**

By the authority vested in the Division of Energy under section 536.023, RSMo 2016, the director amends a rule as follows:

**4 CSR 340-2.010** Definitions **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 835–836). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 340—Division of Energy**  
**Chapter 2—Energy Loan Program**

**ORDER OF RULEMAKING**

By the authority vested in the Division of Energy under section 536.023, RSMo 2016, the director amends a rule as follows:

**4 CSR 340-2.020** General Provisions **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 836–837). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION**  
**Division 10—Missouri Highways and Transportation Commission**  
**Chapter 21—Transportation Corporations**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation

Commission under sections 238.347, 238.362, 238.365, and 238.367, RSMo 2016, the commission amends a rule as follows:

**7 CSR 10-21.010** Procedures for Authorizing Transportation Corporations to Enforce Collection of Tolls is **amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 756-758). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION**  
**Division 60—Highway Safety and Traffic Division**  
**Chapter 2—Breath Alcohol Ignition Interlock Device**  
**Certification and Operational Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440-302.462, 302.525, and 577.041, RSMo 2016 and RSMo Supp. 2017, the commission amends a rule as follows:

7 CSR 60-2.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 758-760). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received nineteen (19) comments on the proposed amendment.

**COMMENT #1:** Smart Start, Inc. (SSI) requested modification to the definition “Alcohol retest setpoint” by replacing the word “rolling” with “running” to make the definition consistent with the amended definition of “Running retest” in the rule.  
**RESPONSE AND EXPLANATION OF CHANGE:** The department agrees and will make the change.

**COMMENT #2:** SSI requested modification to the definition “Alcohol setpoint” by replacing the word “starting” with “operating” to make the definition consistent with the amended definition of “Breath alcohol ignition interlock device (BAIID)” in the rule.  
**RESPONSE AND EXPLANATION OF CHANGE:** The department agrees and will make the change.

**COMMENT #3:** SSI requested modification to the definition “Circumvention” by replacing the amended definition for this term with the following: “To bypass the correct operation of a BAIID by starting the vehicle, by any means, without first providing a breath test.” SSI opined that the revised definition is consistent with the definition of “Circumvention” as published by the Association of Ignition Interlock Program Administrators (AIIPA).  
**RESPONSE AND EXPLANATION OF CHANGE:** The department agrees and will make the change.

**COMMENT #4:** SSI requested modification to the definition “Installation” by replacing the word “installers” with “technicians” to make the definition consistent with the proposed definition of

“Technician” in the rule.

**RESPONSE AND EXPLANATION OF CHANGE:** The department agrees and will make the change.

**COMMENT #5:** SSI requested modification to the definition “Tampering” by adding the phrase “and/or blocking, moving, or disabling the camera, if required” as that language was originally part of the department’s amended definition of “Circumvention” that was removed by SSI’s public comment on “Circumvention.”

**RESPONSE AND EXPLANATION OF CHANGE:** The department agrees and will make the change.

**COMMENT #6:** Consumer Safety Technology, LLC (CST) requested modification to the definition “Alcohol retest setpoint” by deleting this definition and modifying the definition of “Alcohol setpoint.” CST did not give a rationale for the change.

**RESPONSE:** The department disagrees and the suggested changes will not be made.

**COMMENT #7:** CST requested modification to the definition “Alcohol setpoint” by deleting the phrase “ignition interlock” and adding the phrase “or records a failed retest.” CST did not give a rationale for this change.

**RESPONSE:** The department disagrees and the suggested changes will not be made.

**COMMENT #8:** CST requested modification to the definition “Calibration” by adding the phrase “of testing and adjusting a device” to the existing definition. CST did not give a rationale for the change.

**RESPONSE:** The department disagrees and the suggested changes will not be made.

**COMMENT #9:** CST requested modification to the definition “Circumvention” by deleting the phrase “unauthorized, intentional, or overt act or” from the amended definition. CST did not give a rationale for the change.

**RESPONSE:** Since the department has agreed with SSI to adopt the AIIPA’s definition for this term, the department will not make CST’s change.

**COMMENT #10:** CST requested modification to the definition “Division” by capitalizing the word “department” in the definition and throughout the rules because it is a defined term in this rule.

**RESPONSE:** The department disagrees and will not make this change because the secretary of state has previously requested this type of term to be lowercase.

**COMMENT #11:** CST requested modification to the definition “Manufacturer” by replacing the definition with “An entity who is certified by the department to offer devices for installation in motor vehicles in this state.” CST did not give a rationale for the change.

**RESPONSE:** The department disagrees and will not make the suggested change because the proposed definition of “Manufacturer” in the amended rule is the AIIPA’s published definition.

**COMMENT #12:** CST requested modification to the definition “Mobile Service,” by adding the phrases “operation of an”; “separately and simultaneously with its parent fixed location service centers” and; “Mobile service center shall comply with all of the requirements provided for the authorized service provider herein” to acknowledge the connection between a mobile service and the authorized service provider. CST also suggests deleting the phrase “ignition interlock.”

**RESPONSE AND EXPLANATION OF CHANGE:** The department disagrees with the deletion of the phrase “ignition interlock” and the suggested change will not be made since CST did not provide a rationale for the deletion. But the department agrees with all of the other

changes and will make those changes.

COMMENT #13: CST requested modification to the definition “Override lockout” by adding “pure” into the definition. CST did not give a rationale for the change.

RESPONSE: The department disagrees and will not make the suggested change because the proposed definition of “Override lockout” is the AIIPA’s published definition.

COMMENT #14: CST requested modification to the definition “Photo ID technology” by replacing the term, “Photo ID technology,” with “Camera,” as the term “Photo ID technology” is not used in any of the proposed rule provisions.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and will make the change and will renumber the remaining definitions accordingly.

COMMENT #15: CST requested modification to the definition “Real-Time Reporting” by replacing “driver’s” with “operator’s,” because “driver” is an undefined term in this section and “operator” has an existing definition. CST also suggested inserting the phrase “without delay, as cellular reception permits” in this definition to reflect that real-time reporting can be delayed by cellular reception.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and will make the change to replace the word “driver’s” with “operator’s.” But the department disagrees and will not make the suggested change to insert the phrase “without delay as cellular reception permits” because the potential for delayed real-time reporting due to a cellular signal issue is covered by a separate commission rule, 7 CSR 60-2.030(1)(I)4.

COMMENT #16: CST requested modification to the definition “Temporary lockout” by inserting the phrase “within ten (10) minutes” to correspond with 7 CSR 60-2.030(1)(C)3. when referring to the time frame within which three (3) failed attempts to provide a breath sample are recorded.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and will make the change.

COMMENT #17: CST requested modification to the definition “Violations reset” in subparagraph (1)(A)40.B. of this definition by inserting the phrase “running retest” and deleting the phrase “to provide a retest sample” to make the subparagraph consistent with 7 CSR 60-2.030(1)(D)5. CST also requests a new subparagraph E., which states: “When a device is not serviced on its service date” to make the subparagraph consistent with 7 CSR 60-2.030(1)(E)2.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and will make the changes.

COMMENT #18: CST asked that “breath alcohol ignition interlock device (BAIID)” and “device,” which are defined in the rule be used in lieu of “ignition interlock,” “interlock device,” and “ignition interlock device” which are undefined terms that are used in later rules. CST also asked that the term “driver,” which is used in other subsequent rules be replaced with the term “operator” that is defined in this rule.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and will make the changes.

COMMENT #19: Consumer Safety Technology, LLC (CST) requested to amend 7 CSR 60-2.010 to add a definition of the term “service center”. The definition would mean “A fixed location operation of an authorized service provider that includes, but is not limited to, installing, monitoring, maintaining, and removing breath alcohol ignition interlock devices.” CST did not give a reason to add this definition.

RESPONSE: The department disagrees and the requested change will not be made because the ordinary meaning of “service center”

(i.e., the location where service is provided) provides sufficient meaning under the rule.

## 7 CSR 60-2.010 Definitions

### (1) Definitions.

(A) The following words and terms as used in 7 CSR 60-2.010 through 7 CSR 60-2.060 have the following meaning:

1. Alcohol retest setpoint—The breath alcohol concentration at which the ignition interlock device is set for the running retest;

2. Alcohol setpoint—The breath alcohol concentration at which the ignition interlock device prevents the vehicle from operating;

3. Alveolar air—Deep lung air or alveolar breath, which is the last portion of a prolonged, uninterrupted exhalation;

4. Authorized service provider (ASP)—The entity designated by the manufacturer to provide services to include, but not be limited to, installation, monitoring, maintenance, and removal of the breath alcohol ignition interlock device;

5. Bogus breath sample—Any sample other than an unaltered, undiluted, and unfiltered alveolar air sample from a driver;

6. Breath alcohol concentration (BrAC)—The amount of alcohol in a given amount of breath, expressed in weight per volume (% weight/volume) based on grams of alcohol per two hundred ten (210) liters of breath;

7. Breath alcohol ignition interlock device (BAIID)—A breath testing device, including all parts necessary for operation, e.g. hand-set and camera, installed in a vehicle that prevents it from operating if breath test results show a BrAC that meets or exceeds the alcohol setpoint. The device also requires the driver to continue to pass repeated breath tests while the vehicle is running to ensure that the driver remains below the alcohol setpoint. However, the interlock device will not interfere with the normal operation of the vehicle while it is in use;

8. Breath—Expired human breath containing primarily alveolar air;

9. Calibration—The process which ensures an accurate alcohol concentration reading on a device;

10. Camera—A feature of the device that incorporates photo identification or digital images of the person who is providing the breath test;

11. Circumvention—To bypass the correct operation of a BAIID by starting the vehicle, by any means without first providing a breath test;

12. Commission—The Missouri Highways and Transportation Commission created by article IV, section 29, Constitution of Missouri;

13. Department—The Missouri Department of Transportation created by article IV, section 29, Constitution of Missouri;

14. Designated monitoring period—The period of time indicated by the Department of Revenue for required monitoring of the driver’s ignition interlock use by the manufacturer;

15. Device—Breath alcohol ignition interlock device;

16. Division—The Highway Safety and Traffic Division under the department that is delegated the authority to administer the provisions of 7 CSR 60-2.010 through 7 CSR 60-2.060;

17. Download—The transfer of information from the interlock device’s memory onto disk or other electronic or digital transfer protocol;

18. Emergency service—Unforeseen circumstances in the use and/or operation of a breath alcohol ignition interlock device, not covered by training or otherwise documented, which requires immediate action;

19. Filtered breath sample—A breath sample which has been filtered through a substance in an attempt to remove alcohol from the sample;

20. Global positioning system (GPS)—A feature of the device that will log the location (longitude and latitude), date, and time of each breath sample including any refusal, any circumvention attempt,

and any attempt to tamper with the ignition interlock device;

21. Initial breath test—A breath test required to start a vehicle to ensure that the driver's BrAC is below the alcohol setpoint;

22. Installation—Mechanical placement and electrical connection of a breath alcohol ignition interlock device in a vehicle by a technician;

23. ISO—International Organization for Standardization;

24. Lockout—A condition of the device which prevents a vehicle's engine from starting unless it is serviced or recalibrated;

25. Manufacturer—A person or company responsible for the design, construction, and/or production of a BAIID;

26. Mobile Service—A portable operation of an authorized service provider, whether contained within a vehicle or temporarily erected on location, which includes all personnel and equipment necessary to conduct ignition interlock device related business and services, separately and simultaneously with its parent fixed location service centers. The mobile service center shall comply with all of the requirements provided for an authorized service provider herein;

27. Operator—Any person who operates a vehicle that has a court-ordered or Department of Revenue required breath alcohol ignition interlock device installed;

28. Override lockout—Method of overriding a lockout condition by providing a breath sample;

29. Permanent lockout—A condition in which the device will not accept a breath test until serviced by an ASP;

30. Pure breath sample—Expired human breath containing primarily alveolar air and having a breath alcohol concentration below the alcohol setpoint of twenty-five thousandths (.025);

31. Real-Time Reporting—The near real-time transmission of ignition interlock data between the manufacturer's server and the operator's ignition interlock while the device is in use;

32. Refusal—The failure of a driver to provide a breath sample and complete the breath test when prompted by the device;

33. Relative Within Second Degree of Consanguinity or Affinity—A spouse or domestic partner, parent, step parent, child, step child, grandparent, step grandparent, grandchild, step grandchild, brother, step brother, sister, step sister, mother-in-law, father-in-law, grandparent-in-law, grandchild-in-law, brother-in-law, or sister-in-law;

34. Retest—Two (2) additional chances to provide a breath sample below the alcohol setpoint when the first sample failed; or three (3) chances to provide a breath alcohol sample below the alcohol setpoint on the running retest;

35. Running retest—A subsequent breath test that must be conducted within five (5) minutes after starting the vehicle and randomly during each subsequent thirty- (30-) minute time period thereafter while the vehicle is in operation;

36. Service lockout—A condition of the breath alcohol ignition interlock device that occurs when the operator fails to have the device serviced during a certain period of time and results in a permanent lockout condition;

37. Tampering—An overt, purposeful attempt to physically alter or disable an ignition interlock device, or disconnect it from its power source, or remove, alter, or deface physical anti-tampering measures, so a driver can start the vehicle without taking and passing an initial breath test and/or blocking, moving, or disabling the camera, if required;

38. Technician—A person trained by the authorized service provider to possess the skills necessary to install, service, calibrate, and/or remove ignition interlock devices;

39. Temporary lockout—A condition in which the device will not allow the vehicle to start for fifteen (15) minutes after three (3) failed attempts to blow a pure breath sample within a ten (10) minute period;

40. Violations reset—A feature of a device in which a service reminder is activated due to one (1) of the following reasons:

A. Two (2) fifteen (15) minute temporary lockouts within a thirty- (30-) day period;

B. Any three (3) running retest refusals within a thirty- (30-) day period;

day period;

C. Any three (3) breath samples, after startup, at or above the alcohol setpoint within a thirty- (30-) day period;

D. Any attempts to circumvent or tamper with a device; or

E. When a device is not serviced on its service date.

## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 60—Highway Safety and Traffic Division Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission rescinds a rule as follows:

**7 CSR 60-2.020 Approval Procedure is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 760). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received on the proposed rescission.

## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 60—Highway Safety and Traffic Division Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission adopts a rule as follows:

**7 CSR 60-2.020 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 16, 2018 (43 MoReg 760–761). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received six (6) comments on the proposed rule.

COMMENT #1: Smart Start, Inc. (SSI) requested to insert the phrase "The manufacturer shall" in 7 CSR 60-2.020(1) to clarify who is required to submit information required under the rule.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees to make this change.

COMMENT #2: SSI requested to insert a new subsection (F) to 7 CSR 60-2.020(1) that would require a manufacturer to submit a

Quality Assurance Plan in accordance with Appendix A of the model specifications for ignition interlock devices to clarify the calibration process utilized by the manufacturer and to conform to the *Model Guideline for State Ignition Interlock Programs* published by the National Highway Traffic Safety Administration.

RESPONSE: The department disagrees and will not make the requested change because a manufacturer must submit policies and procedures for device calibration under 7 CSR 60-2.020(1)(D).

COMMENT #3: Consumer Safety Technology, LLC (CST) requested to amend 7 CSR 60-2.010 to add a definition of the term “service center”. The definition would mean “A fixed location operation of an authorized service provider that includes, but is not limited to, installing, monitoring, maintaining, and removing breath alcohol ignition interlock devices.” CST did not give a reason to add this definition.

RESPONSE: The department disagrees and the requested change will not be made because the ordinary meaning of “service center” (i.e., the location where service is provided) provides sufficient meaning under the rule.

COMMENT #4: CST requested to amend 7 CSR 60-2.020(1)(E)6. to define “moral turpitude” in order to provide guidance for what the term means, rather than leaving its meaning to manufacturer discretion. CST suggested adding a parenthetical with a list of the crimes that constitute moral turpitude.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees but will not make the suggested change. Rather, the department will replace the phrase “moral turpitude” with the following phrase, “an inherent quality of baseness, vileness, or depravity with respect to a person’s duty to another or to society in general.” The department will also replace “ensure that technicians do not have” with “perform reasonable background checks to avoid technicians with.”

COMMENT #5: CST requested to amend 7 CSR 60-2.020(1)(F), (2)(A), and (3) to capitalize “division” because it is a defined term and replace “applicant” with “manufacturer” because “manufacturer” is the defined term.

RESPONSE AND EXPLANATION OF CHANGE: The department disagrees with capitalizing “division” and will not make this change because the secretary of state has previously requested this type of term to be lowercase. The department agrees to replace “applicant” with “manufacturer” because “manufacturer” is the defined term and this change will be made.

COMMENT #6: CST asked that the term “driver” as used in this rule be replaced with the term “operator” that is defined in 7 CSR 60-2.010.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and will make this change.

#### 7 CSR 60-2.020 Approval Procedure

(1) The manufacturer shall submit the following information.

(E) Submit a quality control plan that includes, but is not limited to:

1. A listing of the manufacturer’s management staff by full name and title, including management at the state, installation site, and service center levels;
2. Training materials for technicians on the installation and calibration of the device;
3. Training materials for installation sites and service centers on how to explain or train operators on the use of the device;
4. Training materials on the use of the device given to operators;
5. Policies, procedures, and/or guidance concerning the supervision of installation sites, service centers, and technicians in the state;
6. Policies, procedures, and/or guidance that explain how the

manufacturer performs reasonable background checks to avoid technicians with two (2) or more alcohol related enforcement contacts as defined in section 302.525, RSMo; or, a manslaughter, involuntary manslaughter, or any type of crime or conduct involving an inherent quality of baseness, vileness, or depravity with respect to a person’s duty to another or to society in general that would compromise the program;

7. Policies, procedures, and/or guidance concerning disciplinary action for authorized service providers and technicians that fail to meet requirements set forth in 7 CSR 60-2.030 through 7 CSR 60-2.050 or any policies of the applicant; and

8. A copy of the service and/or lease agreement given to operators.

### Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION Division 60—Highway Safety and Traffic Division Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission rescinds a rule as follows:

**7 CSR 60-2.030 Standards and Specifications is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 761). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received on the proposed rescission.

### Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION Division 60—Highway Safety and Traffic Division Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission adopts a rule as follows:

7 CSR 60-2.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 16, 2018 (43 MoReg 761–766). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received twenty (20) comments on the proposed rule.

COMMENT #1: Smart Start, Inc. (SSI) gave a comment that supports

the new mandate in paragraph 7 CSR 60-2.030(1)(A)2. that would require, as of January 1, 2019, that an ignition interlock manufacturer possess an ISO 9001 Certification to make or assemble a device certified for Missouri use. SSI supports the language because it conforms to the "Manufacturer Oversight" Best Practice Recommendation of the American Association of Motor Vehicle Administrators (AAMVA) and because it "...will ensure the manufacturer adheres to an auditable, international standard that specifies requirements for a quality management system (QMS) and serves as a method for manufacturers to demonstrate the ability to consistently provide products and services that meet customer and regulatory requirements."

RESPONSE: The department will make no change to the rule as a result of this comment as no change was requested.

COMMENT #2: Alcohol Detection Systems (ADS) opposes the January 1, 2019 ISO 9001 Certification requirement in 7 CSR 60-2.030(1)(A)2. ADS believes this requirement intends to eliminate/prevent competing non-ISO 9001 devices from being in the Missouri market because ISO Certification can cost a manufacturer in excess of twenty thousand dollars (\$20,000) per year, which is an unnecessary expense that ADS has not budgeted for. ADS also says it will drive up the cost to the end user. ADS asserts the ISO 9001 Certification process can take much longer than 6 months, so ADS may not be able to become certified prior to January 1, 2019.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees to change the rule to require that ignition interlock manufacturers apply for ISO 9001 Certification before January 1, 2019, but obtain the Certification no later than July 1, 2019.

COMMENT #3: ADS requested to delete the phrase, "and any refusal to take the breath test" in 7 CSR 60-2.030(1)(H)5. because it requires the capture of "random" images or images captured at unknown times, which may result in the device capturing "intended acts, including but not limited to inappropriate images." ADS believes the capture of inappropriate images may expose the rule to privacy issues protected under the U.S. Constitution's 4th Amendment. Also, this language implies that only a fixed mount camera can be utilized, which would require a significant financial investment in new hardware, since the ADS camera is mounted into the handheld portion of the breath alcohol ignition interlock device (BAIID).

RESPONSE: The department disagrees and the change will not be made because the phrase cited by ADS does not require the BAIID to capture "random" images. Also, the department believes any privacy concerns under the U.S. Constitution's 4th Amendment are minimal. An operator's expectation of privacy is not violated during the capture of intended or inappropriate acts performed in the occupant compartment of a vehicle operated on a public highway as those acts are within the "plain view" of the public and there is no legitimate expectation of privacy. This rule does not require use of a fixed mount camera.

COMMENT #4: Consumer Safety Technology, LLC (CST) requested to amend 7 CSR 60-2.030(1)(A)1. to automatically incorporate into the rule any subsequent amendment or additions to the Model Specifications for Breath Alcohol Ignition Interlock Devices to avoid future rule amendments each time the model specifications are updated.

RESPONSE: The department disagrees and the suggested change will not be made because section 536.031.4, RSMo, prohibits this practice.

COMMENT #5: CST requested to replace "Department" with "Division" in 7 CSR 60-2.030(1)(A)3. because the division provides device certification.

RESPONSE: The department disagrees and the suggested change will not be made. Although the division handles device certification, the decision is made on behalf of the department.

COMMENT #6: CST requested to capitalize "division" in 7 CSR 60-2.030(1)(A)5. since it is a defined term.

RESPONSE: The department disagrees and will not make this change because the secretary of state has previously requested this type of term to be lowercase.

COMMENT #7: CST requested to replace "random test" in paragraph 7 CSR 60-2.030(1)(A)6. with the defined term "running retest." CST did not give a reason for the change.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and the changes will be made.

COMMENT #8: CST requested to delete "Breath Alcohol Concentration" from 7 CSR 60-2.030(1)(B)2. since "BrAC" appears in the section, and it is the acronym for the defined term.

RESPONSE: The department disagrees and will not make this change because the secretary of state has previously requested an acronym to be spelled out the first time it is used in each rule.

COMMENT #9: CST requested to delete the phrase "and any act or attempt to tamper or circumvent a device," from 7 CSR 60-2.030(1)(B)4. since that language appears in the definition of "Violations reset."

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and the change will be made.

COMMENT #10: CST requested to delete the term "Alcohol retest setpoint" consistent with its previous comments to 7 CSR 60-2.010 and delete "retest" throughout subsection (1)(D).

RESPONSE: The department disagrees and these changes will not be made.

COMMENT #11: CST requested to make minor, non-substantive grammatical changes to 7 CSR 60-2.030(1)(D)3. CST did not give a reason for the change.

RESPONSE AND EXPLANATION OF CHANGE: While CST did not give a reason for the changes, the department agrees and will make the changes because it improves the flow of the sentence.

COMMENT #12: CST requested to delete the phrase "the vehicle's horn, or other installed alarm" in 7 CSR 60-2.030(1)(D)4. and replace it with the phrase "an internal alarm." CST reasoned that an internal alarm installed within the passenger compartment of the vehicle would be safer and easier to activate than an external horn. CST said that activating a horn on newer or "exotic" vehicles can be problematic and result in costly repairs.

RESPONSE: The department disagrees and the change will not be made.

COMMENT #13: CST requested to delete "Authorized Service Provider" (ASP) in 7 CSR 60-2.030(1)(D)4. and retain only the acronym "ASP" as this acronym is already cited in the definition of "Authorized Service Provider" in the definitions rule.

RESPONSE: The department disagrees and will not make this change because the secretary of state has previously requested an acronym to be spelled out the first time it is used in each rule.

COMMENT #14: CST requested to delete 7 CSR 60-2.030(1)(F)5. and amend 7 CSR 60-2.030(1)(F)3. and 4. to eliminate a "wet bath" as an acceptable method of calibration and to create an alcohol reference value between .020 and .050 + 10 percent of the alcohol reference value. CST asserts wet baths are difficult to maintain and are unreliable if improperly maintained. CST did not provide any rationale for its change to create an alcohol reference value between .020 and .050 + 10 percent of the alcohol reference value.

RESPONSE: The department disagrees and the requested changes will not be made. Two (2) manufacturers currently utilize wet bath simulators for calibration and eliminating them could cause financial

and logistical challenges for those manufacturers. In addition, a  $\pm 10$  percent alcohol reference value allows for too large of a margin of error. The rule's proposed reference value of  $\pm .050$  BrAC is utilized by the Missouri Safety Center and is accepted by the Missouri Department of Health and Senior Services.

COMMENT #15: CST requested to amend 7 CSR 60-2.030(1)(G)6. so that if a limited driving privilege is not under a five- (5-) or ten- (10-) year denial, then only a court or Missouri statute can mandate the use of photo identification or digital images and only a court can mandate the use of global positioning system (GPS) data. CST asserts this is consistent with section 302.060, RSMo.

RESPONSE: The department disagrees and the requested changes will not be made as the proposed rulemaking has been reviewed by legal counsel for the Department of Revenue, and such legal counsel believes the rule language is consistent with section 302.060, RSMo.

COMMENT #16: CST requested to amend 7 CSR 60-2.030(1)(H) to be consistent with section 302.060, RSMo for the same reason as set forth in Comment #15 immediately above.

RESPONSE: For the same reason as Comment #15, the department disagrees and the requested changes will not be made.

COMMENT #17: CST requested to amend 7 CSR 60-2.030(1)(H)5. to more simply define when photo identification or digital images are required and add a requirement for a photo identification or digital image when there is any circumvention or tampering.

RESPONSE AND EXPLANATION OF CHANGE: The department disagrees with the changes to simplify the language as the more specific language for photo identification/digital image is preferred; however, the department agrees to make the change to require photo identification or digital images for circumvention and tampering.

COMMENT #18: CST requested to amend 7 CSR 60-2.030(1)(I)5. based upon section 302.060, RSMo so that only a court or Missouri statute can require photo identification or digital imaging and only a court can mandate the use of global positioning system (GPS) data.

RESPONSE: The department disagrees and the suggested change will not be made.

COMMENT #19: CST asked that the term "driver" as used in this rule be replaced with the term "operator," which is a term that is defined in 7 CSR 60-2.010.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and will make this change.

COMMENT 20: Donald DeBoard, State Ignition Interlock Coordinator, University of Central Missouri, requested that 7 CSR 60-2.030(1)(F)2. be modified to read "Calibrate devices at least every thirty (30) days, + seven (7) days, or during each monitoring service."

RESPONSE: The department will not make the change because the suggested language was already incorporated into the proposed rulemaking.

## 7 CSR 60-2.030 Standards and Specifications

(1) Device standards and specifications. To be certified, a breath alcohol ignition interlock device must—

### (A) General.

1. Meet or exceed the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 78 FR 26849-26867 as published in the *Federal Register* on May 8, 2013 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective March 8, 2014, and 80 FR 16720-16723 as published in the *Federal Register* on March 30, 2015

and effective March 30, 2015, which are hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication.

2. Be manufactured or assembled by an entity which possesses an accredited ISO 9001 certification. Certification shall be applied for by January 1, 2019, and successfully obtained by July 1, 2019.

3. Have electro-chemical fuel cell sensor technology or other advanced technology approved by the department.

4. Not be affected by humidity, dust, electromagnetic interference, smoke, exhaust fumes, food substance, or normal automobile vibration when used in accordance with device instructions.

5. Audibly or visually indicate when a 1.5 liter breath sample has been collected. The division, at its discretion, may permit the adjustment of the breath volume requirement to as low as 1.2 liter, when provided documentation from a licensed physician verifying an applicable medical condition. The physician's documentation will be submitted in a format approved by the division. Upon review, the division will notify the operator in writing of approval or denial of a lowered breath volume.

6. Permit a vehicle to be restarted without requiring an additional breath test for three (3) minutes after the ignition has been turned off or the vehicle has stalled, except when the operator has failed to take a running retest or has provided a breath sample which meets or exceeds the alcohol setpoint.

7. Have an anti-circumvention feature activated to deter bogus breath samples.

8. Display on a label the message: "WARNING! ANY PERSON TAMPERING, CIRCUMVENTING, OR OTHERWISE MISUSING THIS DEVICE IS GUILTY OF A CLASS A MISDEMEANOR";

### (B) Information to operator.

1. Alert the operator of its readiness for a breath sample.

2. A visual pass/fail indicator of the Breath Alcohol Concentration (BrAC), or a combination audio response and visual pass/fail indicator.

3. Alert the operator of scheduled service at least seven (7) days prior to a scheduled service date.

4. Provide a warning to obtain service within seven (7) days following a missed scheduled service date or violations reset.

5. The device will permanently lockout if service is not obtained within the seven (7) day warning period;

### (D) Alcohol retest set point and running retest.

1. Provide a running retest feature.

2. Have an alcohol retest set point of twenty-five thousandths (.025).

3. Request a running retest within five (5) minutes after the start of the vehicle and randomly during each subsequent thirty- (30-) minute time period thereafter while the vehicle is in operation;

4. Activate the vehicle's horn, or other installed alarm, until the operator shuts off the engine when a device calculates a breath sample at or above the alcohol retest set point of twenty-five thousandths (.025) or when a device records a failure to provide a running retest sample within five (5) minutes.

A. Any aftermarket alarm or siren installed in a vehicle by the Authorized Service Provider (ASP) will be installed inside the passenger compartment of the vehicle.

5. Present a violations reset message when three (3) running retest breath samples at or above the alcohol retest set point occur within a thirty- (30-) day period or when three (3) running retest refusals are recorded within a thirty- (30-) day period;

(H) Photo identification or digital images when the features are enabled as required by the court supervising authority, Department of Revenue, or Missouri statute.

1. Not impede the field of vision of the operator for safe and legal operation of the vehicle;

2. Include a reference photo or digital image of the operator at installation that is included as part of their electronic record.

3. Provide a wide angle view of sufficient quality so the person providing a breath sample and his/her position in the vehicle can be



clearly identified.

4. Provide a photo or digital image of sufficient quality and resolution so that the operator can be clearly identified in all lighting conditions including, but not limited to, extreme brightness, darkness, and low light conditions.

5. Provide a photo or digital image for each successful completion of the initial breath test, successful completion of any running retest breath test, unsuccessful delivery of the initial breath test, unsuccessful delivery of any running retest breath test, any refusal to take the breath test, and for any circumvention or tampering.

6. Indicate the date, time, and BrAC reading when the photo or digital image was taken; and

*REVISED PRIVATE COST: This proposed rulemaking will affect the costs to private entities, including small businesses. The fiscal impact to ignition interlock manufacturers is estimated not to exceed two hundred eighty-three thousand six hundred eighty-four dollars and sixty cents (\$283,684.60) annually, comprising: 1) eighteen thousand eight hundred ten dollars and sixty cents (\$18,810.60), twenty-five thousand seven hundred sixty dollars (\$25,760), and twenty-eight thousand three hundred forty dollars (\$28,340) annually to three (3) BAIID manufacturers to upgrade their BAIIDs to provide for real-time reporting required by the proposed rulemaking; 2) one hundred sixty four thousand eight hundred seventy-four dollars (\$164,874) annually to manufacturer's and forty-five thousand nine hundred dollars (\$45,900) annually for authorized service providers if a BAIID is decertified; and 3) twenty thousand dollars (\$20,000) annually for one (1) BAIID manufacturer to obtain ISO certification.*

**REVISED FISCAL NOTE  
PRIVATE COST**

- I. Department Title: 7 - Missouri Department of Transportation**
- Division Title: 60 - Highway Safety and Traffic Division**
- Chapter Title: 2 – Breath Alcohol Ignition Interlock Device Certification and Operational Requirements**

|                               |   |
|-------------------------------|---|
| <b>Rule Number and Title:</b> | 7 CSR 60-2.030 - Standards and Specifications |
| <b>Type of Rulemaking:</b>    | Proposed Rulemaking                           |

**II. SUMMARY OF FISCAL IMPACT**

| Estimate of the number of entities by class which would likely be affected by the adoption of the rule: | Classification by types of the business entities which would likely be affected:   | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|---|--|--|
| 3<br>(based on real-time reporting compliance)  | Ignition Interlock Manufacturers   | \$18,810.60<br>\$25,760.00<br>\$28,340.00<br>(annual)  |
| 1<br>(based on decertification)   | Ignition Interlock Manufacturers   | \$164,874.00<br>(annual)   |
| 19<br>(based on decertification)  | Authorized Service Providers   | \$45,900.00<br>(annual)  |
| 1   | <b>Breath Alcohol Ignition Interlock Device (BAIID) Manufacturer International Organization for Standardization 9001 certification by July 1, 2019</b> | <b>\$20,000.00<br/>(Annual)</b>  |
| <b>TOTAL:</b>   |  | <b>\$283,684.60<br/>(Annual)</b>   |

**III. WORKSHEET**

There are six (6) breath alcohol ignition interlock manufacturers with eight (8) devices that are approved for use in Missouri. All breath alcohol ignition interlock devices (**BAIID**) are similar as they provide a physical barrier to prevent the operation of a motor vehicle by drivers who have a breath alcohol concentration above a specified limit. A breath sample must be provided at vehicle start up and at variable times during vehicle operation. Manufacturers differ slightly in services provided to their clients (i.e., driving while intoxicated (**DWI**) offenders) and how the information is transmitted from their local installation sites and service centers. Also, **BAIID** features, such as photo identification, vary in terms of quality and what is captured in the photo.

The proposed rule will require “real-time” reporting, which means near real-time transmission of ignition interlock data between a manufacturer’s system and the driver’s **BAIID** while in use. The data shall be available for viewing by Missouri officials within twelve (12) hours of collection.

“Real-time” reporting will be required on all new installations of camera unit BAIIDs by January 1, 2019. Two (2) manufacturers already provide this service with their BAIIDs. In contrast, the remaining provide data only when the data is downloaded, which occurs every thirty (30) days. The delay in receipt of the data creates monitoring challenges for courts and probation and parole personnel. State and local officials can respond more quickly to complaints and violations with “real-time” data transmission and reporting.

In addition, the proposed rule sets standards for photo identification technology. Photo identification technology confirms the identity of the person providing the breath sample and the person operating the vehicle.

The Missouri Department of Transportation (MoDOT) met with the six (6) ignition interlock manufacturers with certified BAIIDs in Missouri and three (3) manufacturers provided information on the fiscal impact caused by the “real-time” reporting requirement. There is wide variation between the fiscal impacts provided because the manufacturers made different assumptions to calculate their total costs. MoDOT can only speculate as to the future loss or growth of the manufacturers’ client base and to what extent, if any, manufacturers will “pass on” compliance costs to their clients through increased user fees. Accordingly, to present the estimated costs below, MoDOT utilized data provided by the Department of Revenue and the per unit-compliance-cost provided by three (3) of the six (6) manufacturers.

| <b>Manufacturer</b> | <b>Total number of devices installed as of 2/6/2018</b> | <b>Number of devices currently installed with camera as of 2/6/2018</b> | <b>Cost per device to meet specifications (provided by manufacturer)</b> | <b>Total Annual Cost</b> |
|---------------------|---|---|--|--------------------------|
| Manufacturer A      | 153   | 52  | \$545.00   | \$28,340.00              |
| Manufacturer B      | 579   | 56  | \$460.00   | \$25,760.00              |
| Manufacturer C      | 899   | 428   | \$43.95  | \$18,810.60              |

Also, a manufacturer may not meet the proposed rule requirements, which would result in decertification. A chart estimating the costs incurred for decertification in Missouri in calendar year 2019 is below for both the manufacturer and their authorized service providers.

| <b>Manufacturer</b> | <b>Total number of devices installed as of 2/6/2018</b> | <b>Monthly Charge for Device</b> | <b>Removal Fee</b> | <b>Total Annual Cost</b> |
|---------------------|---|----------------------------------|--------------------|--------------------------|
| BAIID Manufacturer  | 101 (standard)<br>52 (camera/gps)                       | \$79.00<br>\$99.00               | \$50.00            | \$164,874.00             |

| <b>Authorized Service Provider</b> | <b>Total number of devices installed as of 2/6/2018</b> | <b>Monthly Fee for Service</b> | <b>Install &amp; Removal Fee</b> | <b>Total Annual Cost</b> |
|------------------------------------|---|--------------------------------|----------------------------------|--------------------------|
| Service Providers                  | 153   | \$15.00                        | \$120.00                         | \$45,900.00              |

In addition, the rule will also require that the devices be manufactured or assembled by an entity which possesses an accredited International Organization for Standardization (ISO) 9001 certification by July 1, 2019. MoDOT is adopting this as a best practice recommendation by the National Highway Traffic Safety Administration (NHTSA) and the American Association of Motor Vehicle Administrators (AAMVA). MoDOT believes that one (1) manufacturer currently does not meet this requirement, and according to the ANSI-ASQ National Accreditation Board, the requirement to possess an accredited ISO 9001 certification by July 1, 2019 is reasonable.

The Department cannot independently confirm the alleged \$20,000 annual cost to become ISO 9001 certified for the BAIID manufacturer who is currently not certified. Even if the cost estimate is correct, there are benefits inherent in the ISO certifications that overcome such cost. Organizations that use standards and accredited conformity assessments, like the ISO certification, have higher levels of satisfied customers, more efficient ways of working, better control over costs, and greater control over its internal processes. (Source: ANSI-ASQ National Accreditation Board). The Department agrees to require BAIID manufacturers to apply for ISO 9001 certification before January 1, 2019, but obtain the certification no later than July 1, 2019.

#### IV. ASSUMPTIONS

1. Data utilized is based on current number of devices installed and pricing BAIID manufacturers provided.
2. It is difficult to determine an annual cost since the term of a BAIID use is based on the DWI offender's driving record and can range from 90 days to 10 years. The cost of decertification is based on the current number of BAIIDs the manufacturer has installed assuming the client/offender has a BAIID installed for a one year period.
3. Research used to support information about the ignition interlock detection methods and program requirements: *Best Practices for Alcohol Interlock Programs*, Traffic Injury Research Foundation, April 2001; *Evaluation of State Ignition Interlock Programs: Interlock Use Analyses From 28 States, 2006-2011*, National Highway Traffic Safety Administration, May 2015; and *Ignition Interlock Best Practices*, American Association of Motor Vehicle Program Administrators, August 2015.
4. Only reasonably foreseeable costs have been used.

**Total Estimated Costs for Calendar Year 2019 and all Subsequent Years:** \$283,684.60 annually, comprising: (1) \$18,810.60, \$25,760, and \$28,340.00 annually to three BAIID manufacturers to upgrade their BAIIDs to provide for real-time reporting required by the proposed rulemaking; (2) \$164,874.00 annually to manufacturer's and \$45,900.00 annually for authorized service providers if a BAIID is decertified; and (3) \$20,000 annually for one BAIID manufacturer to obtain ISO certification.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission rescinds a rule as follows:

**7 CSR 60-2.040 Responsibilities of Authorized Service Providers is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 767). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received on the proposed rescission.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission adopts a rule as follows:

**7 CSR 60-2.040 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 16, 2018 (43 MoReg 767–768). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received three (3) comments on the proposed rule.

COMMENT #1: Consumer Safety Technology, LLC (CST) requested to amend 7 CSR 60-2.040(2)(C) to automatically incorporate into the rule any subsequent amendment or additions to the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIID) to avoid future rule amendments each time the model specifications are updated.

RESPONSE: The department disagrees and the change will not be made because section 536.031.4, RSMo, prohibits this practice.

COMMENT #2: CST requested to amend 7 CSR 60-2.040(4) to insert the following: “As outlined in 7 CSR 60-2.030(1)(I) real-time reporting” in order to clarify that a BAIID that does not report in real-time cannot provide notice as set forth in this section.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and the change will be made.

COMMENT #3: CST requested to amend 7 CSR 60-2.040(5)(C)3. to insert the word “business” in order to clarify that a BAIID will be repaired or replaced within one (1) business day of the original call.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and the change will be made.

**7 CSR 60-2.040 Responsibilities of Manufacturers**

(4) As outlined in 7 CSR 60-2.030(1)(I) real-time reporting, a manufacturer shall provide to the court ordered supervising authority by a method and in a format as determined by the court ordered supervising authority—

(5) A manufacturer shall provide to the operator—

(C) A twenty-four (24) hour toll-free telephone number for technical information and tow and/or road service in the event of a device malfunction or failure.

1. A call will be answered by a device technician or returned by a device technician within thirty (30) minutes of the original call time.

2. Assistance related to the malfunction or failure of a device should be provided within two (2) hours of the original call time.

3. The device must be made functional or replaced within twenty-four (24) business hours from the original call time. In the event of a device malfunction or failure on a federal holiday, the device will be repaired or replaced on the following business day;

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission rescinds a rule as follows:

**7 CSR 60-2.050 Breath Alcohol Ignition Interlock Device Security is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 16, 2018 (43 MoReg 768–769). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received on the proposed rescission.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission adopts

a rule as follows:

7 CSR 60-2.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 16, 2018 (43 MoReg 769). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The commission received five (5) comments on the proposed rule.

**COMMENT #1:** Alcohol Detection Systems (ADS) requested 7 CSR 60-2.050(1)(A) be amended to require authorized service providers to require its installers and service centers to carry minimum insurance tort liability coverage of fifty thousand dollars (\$50,000) to cover damage and loss to the operator's vehicle and personal property if under the care of an installer/service center. ADS believes that the proposed rule's minimum general liability insurance limits of three hundred thousand dollars (\$300,000) per occurrence and six hundred thousand dollars (\$600,000) in the aggregate will reduce the number of smaller installers and service centers that will provide ignition interlock service, which will reduce competition in these smaller markets and require increased travel for offenders to service their ignition interlock devices. This will reduce the number of offenders participating in the Ignition Interlock program. Also, the increased cost of the insurance for the installers/service centers will be passed along to offenders.

**RESPONSE:** The department will not make any change to the rule based on this comment. The minimum insurance requirements for authorized installers/service centers were based on insurance guidance and minimum limits provided by Missouri insurance providers who offer business insurance coverage. The information provided by these insurance companies indicated that a minimum coverage amount of three hundred thousand dollars (\$300,000) per event and six hundred thousand dollars (\$600,000) in the aggregate was the lowest coverage offered.

**COMMENT #2:** Consumer Safety Technology, LLC (CST) requested to amend 7 CSR 60-2.050(1)(A) to reduce the rule's proposed three hundred thousand dollars (\$300,000) per occurrence and six hundred thousand dollars (\$600,000) aggregate insurance limits to one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand dollars (\$300,000) in the aggregate. CST asserts this is based on a garage keepers' liability insurance policy designed to cover bodily injury and property damage caused by an accident arising out of a garage business operation. These amounts are adequate as the ignition interlock device manufacturer has product liability coverage of \$1 million per occurrence and \$3 million in the aggregate for design and material defects and design manufacturing, calibration, installation, and removal.

**RESPONSE:** The department will not make any change to the rule based on this comment. The minimum insurance requirements for authorized installers/service centers were based on insurance guidance and minimum limits provided by Missouri insurance providers who offer business insurance coverage. The information provided by these insurance companies indicated that a minimum coverage amount of three hundred thousand dollars (\$300,000) per event and six hundred thousand dollars (\$600,000) in the aggregate was the lowest coverage offered.

**COMMENT #3:** CST requested to amend 7 CSR 60-2.050(1)(F) to include "monitoring and maintenance" to the list of activities that an operator or any other unauthorized person shall not observe when an authorized service provider (ASP) is installing, removing, or otherwise maintaining the ignition interlock device based on the definition of "authorized service provider" in 7 CSR 60-2.010.

**RESPONSE AND EXPLANATION OF CHANGE:** The department

agrees with this comment and will make the change to the rule.

**COMMENT #4:** CST requested to amend 7 CSR 60-2.050(1)(K) to add the word "monitoring" to the list of work activities an ASP may perform on an ignition interlock device to be consistent with the changes made to the definition of "ASP" in 7 CSR 60-2.010. CST also asked to remove the word "repaired" from the list of work activities as repair of a device is reserved for the device manufacturer and asked to insert the term "removed."

**RESPONSE AND EXPLANATION OF CHANGE:** The department agrees with this comment and will make the changes to the rule.

**COMMENT #5:** CST requested to amend 7 CSR 60-2.050(1)(N) to change the words, "lockout override" as those words are used in this rule to "override lockout" because the term "override lockout" is the defined term in the definitions rule, 7 CSR 60-2.010. CST also asked to reduce the time that an override lockout is valid from twenty-four (24) hours to three (3) hours. CST asserts this allows an appointment to be set and provides enough time for the operator to go directly to the service center.

**RESPONSE AND EXPLANATION OF CHANGE:** The department agrees with this comment and will make the changes to the rule.

### **7 CSR 60-2.050 Breath Alcohol Ignition Interlock Device Security**

(1) A manufacturer shall require and take steps to ensure that its authorized service providers—

(F) Take reasonable steps to prevent the operator or any other unauthorized person from obtaining access to installation materials and/or from observing the installation, monitoring, maintenance, or removal of a device;

(K) Document vehicle mileage as displayed on the vehicle odometer when a device is installed, monitored, maintained, and/or removed;

(N) Do not sell or use any type of remote code or reset feature that allows the operator to bypass a device without providing all required breath tests. An override lockout may be provided under the following conditions:

1. The override lockout must be unique to the device;
2. All requirements outlined in 7 CSR 60-2.030 through 7 CSR 60-2.050 apply;
3. The override lockout will not be valid for more than three (3) hours upon which the device will enter a permanent lockout status; and
4. Each override lockout will be uniquely recorded in the data storage system;

## **Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION Division 60—Highway Safety and Traffic Division Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements**

### **ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission rescinds a rule as follows:

**7 CSR 60-2.060 Suspension, or Revocation of Approval of a  
Device is rescinded.**

A notice of proposed rulemaking containing the proposed rescission

was published in the *Missouri Register* on April 16, 2018 (43 MoReg 769-770). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received on the proposed rescission.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.130, 302.060, 302.304, 302.309, 302.440-302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016 and RSMo Supp. 2017, the commission adopts a rule as follows:

7 CSR 60-2.060 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 16, 2018 (43 MoReg 770-771). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received five (5) comments on the proposed rule.

COMMENT #1: Consumer Safety Technology, LLC (CST) requested to amend 7 CSR 60-2.060(2)(C)1. to automatically incorporate into the rule any subsequent amendment or additions to the Model Specifications for Breath Alcohol Ignition Interlock Devices to avoid future rule amendments each time the model specifications are updated.

RESPONSE: The department disagrees and the change will not be made because section 536.031.4, RSMo, prohibits this practice.

COMMENT #2: CST requested to add to 7 CSR 60-2.060(2) a new subsection (J) so that if a manufacturer's device is sanctioned, disapproved, revoked, or cancelled in another state or jurisdiction, such a circumstance warrants suspension and/or decertification in Missouri as well. CST did not give a reason for this change.

RESPONSE: The department disagrees and the suggested change will not be made, since the proposed rulemaking already includes a similar provision in 7 CSR 60-2.040(2)(I).

COMMENT #3: CST requested to add to 7 CSR 60-2.060(3)(D) a requirement that a manufacturer provide a one hundred thousand dollar (\$100,000) performance bond to replace the manufacturer's ignition interlock device if it is suspended or decertified. CST did not give a reason for this change.

RESPONSE: The department disagrees and the suggested change will not be made, since there is no history in Missouri of a manufacturer not covering the cost of removing a suspended or decertified breath alcohol ignition interlock device (BAIID).

COMMENT #4: Smart Start, Inc. (SSI) requested to amend 7 CSR 60-2.060(2)(G) to require the department receive multiple operator complaints concerning proper BAIID operation before a device may be suspended and/or decertified. SSI believes this change would be consistent with language in earlier 7 CSR 60-2.060(2)(E) that requires

multiple device malfunctions and/or failures before a device may be suspended and/or decertified.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and the change will be made as a result of this comment.

COMMENT #5: SSI requested to amend 7 CSR 60-2.060(3)(C) to insert the phrase "chosen by the offender" in order to allow the operator to choose the certified BAIID that shall replace the BAIID that was suspended or decertified. SSI believes the client/offender should be able to select the BAIID and will not require the entity whose BAIID was suspended/decertified to sell the offender's BAIID contract to a competitor.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and the change will be made as a result of this comment.

**7 CSR 60-2.060 Device Suspension and Decertification**

(2) Circumstances warranting suspension and/or decertification include, but are not limited to:

(G) Validated complaints from multiple operators concerning proper device operation;

(3) Cost. In the event of suspension or decertification, the manufacturer will be responsible for all compliance costs associated with 7 CSR 60-2.010 through 7 CSR 60-2.060 including, but not limited to:

(C) Installation of a new device chosen by the offender on the offender's vehicle;

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.005 Definitions is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 739-740). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.010 Accidents is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018

(43 MoReg 743–744). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.012** Dedicated Railroad Telephone **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 744). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.018** Signs **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 744–745). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.020** Track Switch Position Indicators **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 745–746). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.030** Visual Obstructions at Public Grade Crossings **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 746). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.032** Temporary Closing of a Public Grade Crossing **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 746–747). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation



Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.040 Transportation of Employees is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 747-748). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received two (2) comments on the proposed amendment.

COMMENT #1: Jason Hayden, State Legislative Director for the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART) asked that this rule be further amended to require the rule to apply to taxicabs and any other vehicles used by a railroad company to transport its employees. SMART believes this change would protect the safety of railroad employees.

RESPONSE: The current rule became effective in 1985 and specifically does not apply its mandates to taxi cabs, thus SMART's requested change would expand the application of the rule. Also, this rule was promulgated pursuant to section 389.945.1, RSMo which states in relevant part: "*The...division... shall make...safety rules and regulations relating to motor vehicles...used by common carriers by rail to transport employees...to and from their places of employment or during the course of their employment.*" The phrase 'used by common carriers' seems to exclude taxi cabs and were the department to adopt SMART's requested change it may very well exceed its statutory authority. No changes were made to the amended rule as a result of this comment.

COMMENT #2: SMART also asks to amend the rule to require a minimum of \$1 million in automobile insurance coverage (and uninsured and underinsured coverage) to protect railroad employee occupants in cases of accidents. SMART says a number of states provide this insurance requirement.

RESPONSE: The department has tried to follow the guidance in the governor's Executive Order 17-03, which asked state agencies to identify regulations that reduce jobs, stifle entrepreneurship, limit innovation, or impose costs far in excess of their benefits. The department is not willing to make changes to the rule that may impose costs far in excess of the benefits and this change requested in the public comment requiring \$1 million in insurance would seem to do this. No changes were made as a result of this comment.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.060 Structural Clearances is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 749-751). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.071 Grade Crossing Safety Account is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 751-752). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.080 Railroad-Highway Grade Crossing Warning  
Systems is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 752-753). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.092 Railroad Reports is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 753-754). No changes have been made in the text of the

proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.100** Track and Railroad Workplace Safety Standards **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 754–755). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.110** Walkway Safety Standards at Industrial Tracks **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 755). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.130** Grade Crossing Construction and Maintenance **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 755–756). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.920 and 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.140** First-Aid Kits **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 756). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.300** Railroad Safety Applications (Other Than Railroad-Highway Crossings) **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 740–741). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation

Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.320** Railroad-Highway Crossing Applications  
is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 741-742). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION**  
**Division 265—Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-8.324** Changes to Highway-Rail Grade Crossing Active  
Warning Devices is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2018 (43 MoReg 742-743). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 16—RETIREMENT SYSTEMS**  
**Division 20—Missouri Local Government Employees’  
Retirement System (LAGERS)**  
**Chapter 2—Administrative Rules**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Local Government Employees’ Retirement System (LAGERS) under sections 70.605.21 and 70.621.4, RSMo 2016, the Retirement System adopts a rule as follows:

**16 CSR 20-2.115** Administration of Prior Non-LAGERS  
Retirement Plans is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1181-1182). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**  
**Division 2150—State Board of Registration for the  
Healing Arts**  
**Chapter 5—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.104.3, 335.036, 334.125, and 335.175, RSMo 2016, the board amends a rule as follows:

**20 CSR 2150-5.100** Collaborative Practice is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1058-1059). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received one (1) comment on the proposed amendment.

COMMENT: A comment was received from the Missouri Association of Osteopathic Physicians and Surgeons (MAOPS) opposing the proposed amendment. Brian Bowles, Executive Director submitted the comments on behalf of the nearly three thousand (3,000) physicians they represent in the state of Missouri. MAOPS opposes changes to the mileage limitations between a collaborating physician and an advanced practice registered nurse to seventy-five (75) miles by road and expressed concern regarding the use of emergency rulemaking procedures for this unnecessary change. MAOPS further stated they feel the current fifty- (50-) mile limitation is adequate. MAOPS’ position is that the fifty-mile limitation was put in place to protect the patient AND the collaborating physician and APRN. It allows for a more rapid response of a collaborating physician in case of emergency, so the patient can receive appropriate medical care. Expanding this distance jeopardizes patient safety. Equally important, expanding this distance jeopardizes the collaborative relationship, not only for the collaborating physician who has placed his/her license on the line in order to provide expanded access in the first place, but for the APRN who has willingly agreed to practice under the terms specified in the agreement. MAOPS worries that fewer physicians will be willing to risk their license as restrictions are weakened, thus exacerbating the access to care issue for which this rule was promulgated. MAOPS further states that we cannot forget that physicians are essentially loaning their licenses to APRNs to allow them to practice independently without direct supervision. The physician licenses need to be protected and the Board of Healing Arts has a duty to ensure this, in order that patients have access to quality medical care when needed. MAOPS further states that no mileage restriction is in place for collaborating physicians and APRNs using telemedicine. This was passed in statute and promulgated in rule several years ago to “solve” the mileage issue of concern to the nurses. MAOPS questions the motivation of a rule to increase the mileage restriction to seventy-five (75) miles, when an avenue already exists for unlimited mileage. If collaborating physicians and APRNs do not have the technology or knowledge to effectively use telemedicine in their collaboration, shouldn’t we question the wisdom of increasing the mileage restriction to accommodate them? Addressing the decision that this be promulgated as an emergency rule, MAOPS feels strongly that this was a politically motivated decision, and not in the best interest of patients or of the collaborating physicians and APRNs. MAOPS states that they know of no data that suggests that 1) the fifty- (50-) mile restriction is posing a public health threat, or 2) that increasing it to seventy-five (75) miles will solve the access to

care issue cited. Lacking such data, MAOPS questions the necessity of the emergency rule, and are concerned with the precedent this sets for future emergency rulemaking. Again, current law allows for no mileage restriction if telemedicine is used in the collaboration, making not only the emergency rule, but the rule in general, unnecessary. However, if the board feels the need to promulgate this rule, MAOPS asks that it be made very clear in the rule that the collaborating physician has the sole discretion to choose whatever mileage limitation they feel comfortable with, up to seventy-five (75) miles.

RESPONSE: The board appreciates the comment received from MAOPS and reiterates this amendment was a difficult discussion for the board and the changes were made in good faith. The board believes that collaborative practice protects the health, welfare, and safety of the public. The board is not interested in making any further changes that they believe will compromise Missouri citizens. No changes have been made to the rule as a result of this comment.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2200—State Board of Nursing  
Chapter 4—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Nursing under sections 334.104.3, 334.125, 335.036, and 335.175, RSMo 2016, the board amends a rule as follows:

**20 CSR 2200-4.200 Collaborative Practice is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1059). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs, and other items required to be published in the *Missouri Register* by law.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 20—Division of Learning Services  
Chapter 100—Office of Quality Schools**

**STATEMENT OF ACTUAL COST**

**5 CSR 20-100.270 Charter Sponsorship Inflation Adjustment**

The original estimated cost and fiscal note for the public cost to this rule was published in the *Missouri Register* on January 15, 2016 (41 MoReg 77-78). The cost to state agencies and political subdivisions has exceeded the cost estimate by more than ten percent (10%). Therefore, pursuant to section 536.200.2, RSMo 2016, it is necessary to publish the cost estimate together with the actual cost of the first full fiscal year. The estimated cost was one hundred forty thousand four hundred thirty-four dollars and thirty-two cents (\$140,434.32) and at the end of the first full fiscal year, the actual cost to state agencies and political subdivisions was one hundred eighty-one thousand six hundred five dollars and seventy-nine cents (\$181,605.79).

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**STATEMENT OF ACTUAL COST**

**10 CSR 10-6.250 Asbestos Projects—Certification, Accreditation  
and Business Exemption Requirements**

The original fiscal note containing the estimated public entity cost of this rulemaking was published in the *Missouri Register* on August 17, 2015 (40 MoReg 1023-1031). The cost to state agencies and political subdivisions has exceeded the cost estimate by more than 10 percent (10%). Therefore, pursuant to section 536.200.2, RSMo, it is necessary to publish the cost estimate together with the actual cost of the first full fiscal year. The estimated cost was six thousand eight dollars (\$6,008) and, at the end of the first full fiscal year, the actual cost to state agencies and political subdivisions was seven thousand ninety-five dollars (\$7,095).

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 60—Missouri Health Facilities Review  
Committee  
Chapter 50—Certificate of Need Program**

**NOTIFICATION OF REVIEW:  
APPLICATION REVIEW SCHEDULE**

The Missouri Health Facilities Review Committee has initiated review of the CON applications listed below. A decision is tentatively scheduled for November 5, 2018. These applications are available for

public inspection at the address shown below.

**Date Filed**

**Project Number:** Project Name  
City (County)  
Cost, Description

**8/23/2018**

**#5598 HS:** Heartland Regional Medical Center  
St. Joseph (Buchanan County)  
\$3,123,931, Replace Linear Accelerator

**8/24/2018**

**#5632 RS:** Cedarhurst of Arnold Assisted Living & Memory Care  
Arnold (Jefferson County)  
\$11,320,000, Establish 84-bed ALF

**#5633 RS:** Columbia Senior Living Community  
Columbia (Boone County)  
\$14,052,176, Establish 66-bed ALF

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by September 26, 2018. All written requests and comments should be sent to—

Chairman  
Missouri Health Facilities Review Committee  
c/o Certificate of Need Program  
3418 Knipp Drive, Suite F  
PO Box 570  
Jefferson City, MO 65102  
For additional information contact Karla Houchins at (573) 751-6700.