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

HOW TO CITE RULES AND RSMO

RULES

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

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

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

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

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

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

Code and Register on the Internet

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

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

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

Rules 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.

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

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

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 1—Organization and Operation**

EMERGENCY AMENDMENT

1 CSR 20-1.010 General Organization. The board is amending sections (1)–(4) and deleting section (5).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and

United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

(1) Division of Personnel. The Division of Personnel is a division of the Office of Administration of the state government. It is responsible for the administration of a uniform system of classification and pay and a system of personnel management [based on merit principles] in accordance with the provisions of the State Personnel Law, **Chapter 36, RSMo**. In addition, it is the duty of the division to—

(A) Promote uniformity in employment conditions and compensation of state employees;

[(B) Establish and direct a central labor relations function for the state which shall coordinate labor relations activities in individual state agencies, including participation in negotiations and approval of agreements;

(C) Develop, implement, and administer a central training program of mandatory and elective training for persons employed in management positions in agencies of state government, and encourage and assist in the development of specialized training activities as can best be administered internally by these individual agencies;]

[(D)](B) Provide aid to departments in personnel matters; and

[(E)](C) Develop a career system of state service that will enable the state to utilize all its personnel in as efficient and effective a manner as possible without restrictions of department, agency, or other entity of the executive branch of state government.

(2) Personnel Advisory Board. [Within the Division of Personnel is the Personnel Advisory Board consisting of seven (7) members who are nominated by the commissioner of administration and appointed by the governor with the advice and consent of the senate. Four (4) members of the board shall be public members, citizens of the state who are not state employees or officials, of good character and reputation, who are known to be in sympathy with the application of merit principles to public employment. Two (2) members shall be employees of either a merit agency or an agency covered by uniform classification and pay, one (1) a member of executive management, and one (1) a non-management employee. The state equal employment opportunity officer shall be a member of the board. No member of the board, during his/her term of office, or for at least one (1) year prior to that, shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization or hold, or be a candidate for, a partisan public office. An employee member who leaves state employment or otherwise fails to further qualify for the appointment shall vacate the position. The] **As imposed upon the Personnel Advisory Board by statute and elsewhere in these rules, the board** prescribes rules and approves classification and pay plans prepared by the Division of Personnel. [In addition to these and other duties imposed upon the board by law and elsewhere in these rules, it is also the duty of the board to—]

[(A)] Represent the public interest in the improvement of public personnel administration in the state;

(B) Advise the governor and the director on problems concerning personnel administration;

(C) Advise and assist the director in fostering the interest of institutions of learning and civic, professional, and employee organizations in the improvement of personnel standards in the public service;

(D) Make any investigation which it may consider desirable

concerning the administration of the personnel subject to this law; and

(E) Make annual reports, and special reports, as it considers desirable, to the governor and general assembly regarding personnel administration in the state service and recommendations for improvement.]

(3) Personnel Director. [The personnel director is appointed by the governor, subject to the advice and consent of the senate, from a list of the five (5) most qualified applicants provided by the Personnel Advisory Board. S/he shall be appointed for a term of four (4) years beginning on July 1 following the election of a governor, which term may be renewed at its expiration at the option of the governor.] The director, as executive head of the Personnel Division, directs and supervises all its administrative and technical activities.

(A) Qualifications. The director must be a person who is familiar with the principles and methods of personnel administration and who is familiar and in sympathy with the application of merit principles and efficient methods of public employment. The personnel director, during his/her term of office or for one (1) year prior to that, shall not be a member of any local, state, or national committee of a political party, be a member of any partisan political club or organization, actively participate in any partisan political campaign, or hold or be a candidate for any partisan public office.

(B) Duties. The director, as executive head of the Personnel Division, directs and supervises all its administrative and technical activities including preparation and maintenance of the position classification and pay plans; the recruitment, examination, and certification of eligible job applicants; the review and approval of personnel transactions; the audit and certification of payrolls and the establishment of a system of employee service reports. In addition to the duties imposed elsewhere in these rules, it is also his/her duty to—

1. Attend all meetings of the board and to act as secretary and keep minutes of its proceedings;

2. Establish and maintain a roster of all officers and employees subject to the classification and pay provisions of the State Personnel Law, in which there is set forth for each employee, a record of the class title of the position held; the salary or pay; any change in class title, pay, or status; and other data as may be deemed desirable to produce significant facts pertaining to personnel administration;

3. Appoint, under the provisions of the state personnel law, and with the approval of the board, to fix the compensation of employees of the division, and experts and special assistants as may be necessary to carry out effectively the provisions of the law;

4. Direct the activities of the Personnel Division and its staff and to maintain proper discipline and work standards;

5. Develop, in cooperation with appointing authorities, training programs for employees;

6. Investigate from time-to-time the operation and effect of the law and of the rules and to report findings and recommendations to the board and to the governor;

7. Make annual reports regarding the work of the division and special reports as considered desirable to the board, the general assembly, and to the governor;

8. Perform any other lawful act which is considered necessary or desirable to carry out the purposes and provisions of the law; and

9. Assist the commissioner of administration with personnel work in all state agencies to upgrade and improve the uniform quality of state employment.]

(4) Methods of Operation. The Personnel Division conducts its general operations with headquarters in Jefferson City, Missouri. [It

also conducts periodic examinations in a number of other locations throughout the state for the convenience of applicants and to meet the needs of the state service.] Public hearings on rule changes and the pay plan are normally held by the Personnel Advisory Board in Jefferson City as are the regular meetings of the board.

[(5) Public Information Procedures. Notices of merit system examinations describing eligibility requirements and procedures for filing applications are published by the Division of Personnel, posted in its office, and provided to state agencies and institutions in which positions exist in the class for which the examinations are offered. The Division of Personnel will use various means to make applications available which may include paper and electronic forms. Further information concerning examinations available, application procedures, employee appeal rights and procedures for submission of appeals, general merit system provisions and related matters may be obtained from the Jefferson City office of the Division of Personnel.]

AUTHORITY: section 36.070, RSMo [2000] Supp. 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 1—Organization and Operation**

EMERGENCY AMENDMENT

1 CSR 20-1.020 Definitions. The board is amending section (1) and adding new sections (2)–(5).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

PURPOSE: This rule defines the meanings of specific words and terms used in the rules of the Personnel Advisory Board and the Personnel Division, **including leaves of absence**.

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

(1) Definitions.

(A) [The following words and terms, used with specific intent throughout these rules or in their administration, are defined for clarity.] As used in these rules, the following words and terms, unless the [content] context clearly requires otherwise, [shall] have the meaning indicated [as follows] below:

[1. Agency, state agency, or agency of the state means each department, board, commission or office of the state, except for offices of the elected officials, the general assembly, the judiciary, and academic institutions;]

[2.]1. Allocation means the assignment of an individual position to an appropriate class, multiple classes, or class and band on the basis of the duties, authority, and responsibilities of the position;

[3. Appointing authority means an officer or agency subject to the law having power to make appointments to positions under the law;]

[4.]2. Appointment means the lawful hiring of an individual by an appointing authority;

[5. Board means the Personnel Advisory Board;

6. Broad classification band means a grouping of positions with similar levels of responsibility or expertise;]

[7.]3. Certificate means a listing of eligibles [in grade order] sent to agencies [in the classified service] to be used in filling a current or anticipated vacancy at a specific work location[. There are three (3) types of certificates: reinstatement, open and promotional];

[8. Certified eligible means an individual whose name appears on a certificate, who indicates a willingness to accept appointment under conditions specified, and who ranks in the selection group;

9. Class or class of positions means a group of positions subject to the law sufficiently alike in duties, authority and responsibility to justify the same class title and qualifications and the same schedule of pay to all positions in the group;]

[10.]4. Class specification means the written description of a class containing a title, a statement of the customary duties, authority, responsibilities and other significant characteristics of the class, and the qualifications that are necessary or desirable for the satisfactory performance of the duties of the class based on the specified knowledges, skills, and abilities;

[11.]5. Classification means the systematic analysis, evaluation and grouping of positions, not employees, on the basis of their duties, authorities, responsibilities, and other significant characteristics into relatively homogeneous classes;

[12.]6. Classification plan means the plan prepared, adopted, maintained, and administered by the Division of Personnel and under the authority and responsibility of the Personnel Advisory Board which sets forth, for each class of positions, a class title, class specification, overtime, and equal employment opportunity (EEO) category designations;

[13.]7. Classified service means those positions in agencies which are subject to the merit system provision contained in [the law] statute, specifically section 36.030.1(2), RSMo, and these rules and the classification and pay provisions enumerated in [1 CSR 20-2.010 and 1 CSR 20-2.020. Agencies having positions in the classified service are defined by 1 CSR 20-1.040(1)] statute and these rules;

[14.]8. Covered service means those positions in agencies subject to the classification and pay provisions contained in [1 CSR 20-2.010 and 1 CSR 20-2.020] statute and these rules, but which are not subject to the merit system provisions of [the law] statute and these rules[. Agencies having positions in the covered service are defined by 1 CSR 20-1.045(1)];

[15. Declination means the definite refusal to accept appointment and assignment after having indicated a desire to be considered for that appointment and assignment;]

[16.]9. Demotion, in the general classification plan, means a change of an employee from a position in one (1) class to a position in another class which is assigned a lower pay range within the pay plan. [In the broad classification bands, demotion, also

termed a downward interband appointment, means a change of an employee from a position in one (1) band to a position in a lower band.] A demotion may also involve the involuntary movement of an employee from a position in a band to a position in a range where the salary is decreased [and is adjusted to an available step];

[17. Director means the director of the Division of Personnel of the Office of Administration;

18. Disabled veteran means a veteran who has served on active duty in the armed forces at any time who receives a compensation as a result of a service-connected disability claim allowed by the federal agency responsible for the administration of veterans' affairs or who receives disability retirement or disability pension benefits from a federal agency as a result of such a disability or a National Guard veteran who was permanently disabled as a result of active service to the state at the call of the governor;

19. Division of service means a state department or any division or branch or any agency of the state government, the positions and employees in which are under the same appointing authority;

20. Effective date of the law means July 1, 1946;

21. Eligible means a person whose name is on a register or who has been determined to meet the qualifications for a class or position;

22. Exempt service means those positions in agencies not subject to the merit system provisions of the law and which according to 1 CSR 20-1.045(2) may be filled without regard to 1 CSR 20-2.010 and 1 CSR 20-2.020 governing classification and pay. These positions are found in agencies which are otherwise subject to the classification and pay provisions of the law and these rules. Agencies having positions in the exempt service are defined by 1 CSR 20-1.045(1);

23. Homemakers and caretakers mean persons who gave care to young children and were not otherwise gainfully employed for a period of at least two (2) years;]

[24.]10. Incumbency status means a determination made by the Division of Personnel that an [employee] individual in the classified service may be placed in a class by means of reclassification;

[25.]11. Incumbent means [the employee] an individual occupying a position;

[26. Initial band appointment means an original appointment of a new employee to a position in the broad classification bands or the appointment of an employee from a position in a range to a position in the broad classification bands in accordance with an applicable statute and rules;

27. Interband appointment means the upward or downward movement of an employee in the broad classification bands from a position in one (1) band to a position in a higher or lower band;]

[28.]12. Law means the State Personnel Law;

[29.]13. Merit system means those positions[, both classified and unclassified, in agencies] covered by [1 CSR 20-1.030(1)(A) and 1 CSR 20-1.040 of these rules] section 36.030.1(2), RSMo;

[30. Open certificate means a listing of eligibles for employment in the classified service in grade order, irrespective of employment status, who have indicated that they wish to be considered for employment at a specific work location where a current or anticipated vacancy exists within a specific class;

31. Open competitive examination means a test for positions in a particular class, admission to which is open to all applicants who meet the stated minimum qualifications;]

[32.]14. Original appointment means an appointment of a new employee, covered under section 36.030.1(2), RSMo, to a position of a permanent or continuing nature made in accordance with an applicable statute and rules;

[33. *Original probationary period means a period following an original appointment of an employee which is sufficient to demonstrate the employee's ability to perform the duties of the position;*

34. *Parental preference means the credit allowed in recognition of persons who have terminated employment with the state of Missouri to serve as full-time homemakers and caretakers of children under the age of ten (10). This credit is added to the passing grade earned in an examination conducted for the establishment of registers of eligibles. For purposes of this rule, the person must have resigned from state service with the executive, judicial or legislative branches in good standing;*

35. *Part-time certificate means a listing of eligibles for employment in the classified service, issued to agencies in grade order which contains the names of eligibles available for part-time employment equivalent to eighty percent (80%) or less of a full-time position;]*

[36.]15. *Pay differential means the payment of an authorized rate(s) of pay which may exceed the range of compensation prescribed for a class due to differing work conditions, assignment, incumbent qualifications or other designated factor. The establishment and usage of these differentials are approved by the Personnel Advisory Board;*

[37.]16. *Pay plan means the plan prepared, adopted, maintained, and administered by the Division of Personnel under the authority of the Personnel Advisory Board, as described in section 36.140, RSMo, which sets forth for each class of positions a pay range or bands with a minimum and a maximum rate and intermediate rates as may be established, as well as any pay differentials authorized by the board;*

[38.]17. *Personnel rules means the rules of the Personnel Advisory Board and the Division of Personnel;*

[39.]18. *Position means the fundamental unit of classification and allocation comprised of a set of current duties and responsibilities, assigned or delegated by competent authority;*

[40.]19. *Position description means an official written statement of the duties, responsibilities, supervisory relationships, and other basic data of a position used in the position classification and allocation process;*

[41.]20. *Position management means the monitoring and control of the establishment of positions and of the movement of incumbents in and out of positions as well as the maintenance of current and historical information that identifies and defines each position;*

[42.]21. *Position review means an investigation of the duties and responsibilities of a position, which may include an interview of the incumbent and his/her supervisor, to determine the appropriateness of the position's allocation;*

[43. *Probationary employee means a person serving a probationary period;]*

[44.]22. *Probationary period means a period, applicable to employees covered under section 36.030.1(2), RSMo, which is sufficient to demonstrate the employee's ability to perform the duties of the position [following an original appointment, promotional appointment, reemployment appointment or reinstatement appointment as qualified in 1 CSR 20-3.040(2) or following an initial band appointment or interband appointment to a position in a higher band as qualified in 1 CSR 20-2.015(5)];]*

[45.]23. *Promotion, in the general classification plan, means a change of an employee from a position in one (1) class to a position in another class which is assigned a higher established pay range within the pay plan. [In the broad classification bands, promotion, also termed an upward interband appointment, means a change of an employee from a position in one (1) band to a position in a higher band.] A promotion may also involve the movement of an employee from a position in a band to a position in a range where the salary is [adjusted in excess of that necessary to place the employee on a step within the range] increased;*

[46. *Promotional certificate means a listing of eligibles*

for employment in the classified service in grade order which contains the names of regular, reemployment probationary, promotional probationary or reinstatement probationary employees of a division of service;

47. *Promotional examination means a test for positions in a particular class, in the classified service, admission to which is open to all persons who meet the stated minimum qualifications and who are employees with regular status, or who are in reemployment probationary, promotional probationary or reinstatement probationary status in positions in that agency;*

48. *Promotional probationary period means a period following a promotional appointment which is sufficient to demonstrate the employee's ability to perform the duties of the position;*

49. *Promotional register means a list of persons in the classified service who have been found qualified by a promotional examination for appointment to a position in a particular class;*

50. *Provisional appointment means an appointment made to fill a classified position, when the director is unable to certify sufficient eligibles from a register;*

51. *Public hearing means a hearing held after public notice at which any person may have a reasonable opportunity to be heard;]*

[52.]24. *Public notice means notice posted [on the official bulletin board of] by the Division of Personnel[. The notice announcing a public hearing to be conducted by the Personnel Advisory Board shall advise the public of] and includes the time, date, and place of the meeting and its tentative agenda and [will be] is posted at least twenty-four (24) hours prior to the commencement of the meeting, unless this notice is impossible or impractical;*

[53.]25. *Qualifications, as stated on the class specification, means the education, experience, and/or certification or licensure necessary for the satisfactory performance of the duties of the class;*

[54.]26. *Reallocation means the change in the allocation of an individual position on the basis of duties, authority and responsibilities of the position, or an official change in the classification plan;*

[55.]27. *Reclassification means a classification change of an employee in conjunction with a position reallocation or movement within a multilevel allocated position. For a position in the classified service, the use of reclassification is applicable to an employee having incumbency status, as ascertained from a position review conducted by the Division of Personnel;*

[56. *Reemployment means appointment, without competitive certification, of an individual who had regular status and left a class or employment in good standing. Reemployment could be made to the same or comparable class in the general classified service or to the same class and the same or lower band in the broad classification bands;*

57. *Register means a reinstatement register, a promotional register or a register of eligibles;*

58. *Register of eligibles means a list of persons who have been found qualified for appointment to a position in the classified service;]*

[59.]28. *Regular appointment means a change of employee status given to an employee after successful completion of a probationary period;*

[60. *Regular employee means an employee who has been given a regular appointment and has successfully completed a probationary period as defined by the law;*

61. *Regular promotion means an appointment given to an employee after successful completion of a promotional probationary period;]*

[62.]29. *Reinstatement means an action which returns an employee to a class in which the employee held regular status [in one (1) of the following circumstances: appointment from a*

reinstatement register,] due to an ordered reinstatement [or reinstatement to former or comparable class during promotional probationary period];

[63. Reinstatement certificate means a listing of former employees, in the classified service, in order of service credit, who have been laid off or demoted in lieu of layoff;

64. Reinstatement register means a list of persons who have been regular employees in the classified service and who have been laid off in good standing due to lack of work or funds, demoted or downward reclassified in lieu of layoff;]

[65.]30. Salary adjustment means a change in salary rate resulting from a general structure increase or a range-repositioning change;

[66.]31. Salary advancement means an increase in salary within the range or band prescribed for the class established in the pay plan given in recognition of work performance, length of service, or both; additional duties, responsibilities or skill; to maintain equity within and between classifications; to effect a within-grade salary increase; or in conjunction with a promotion, upward job reclassification, or end-of-probation transaction, or for other reasons promoting the needs of the service;

[67. Selection group means that number of individuals certified to an appointing authority who may be lawfully appointed and who are prepared to accept appointment under conditions specified. A selection group will number up to fifteen (15) individuals or fifteen percent (15%) of all ranked individuals unless category certification or some other procedure has been established. A selection group may also include five (5) additional available individuals for each succeeding vacancy on the same certificate;

68. Service credit for the purposes of these rules means the Missouri State Employees' Retirement System (MOSERS) creditable service less any purchased service, but including service for which a deferred retirement lump sum option was exercised. Service credits shall be used in determining the order of layoff and the order in which names shall be placed on reinstatement registers;

69. Surviving spouse means the unmarried surviving spouse of a disabled veteran or any person who was killed while on active duty in the armed forces of the United States or an unmarried surviving spouse of a National Guard veteran who was killed as a result of active service to the state at the call of the governor;]

[70.]32. Suspension means an enforced leave without pay for disciplinary purposes or pending investigation of charges made against an employee;

[71.]33. Temporary appointment means an appointment [from a register of eligibles] to a position [in the classified service] for a period not to exceed a total of six (6) months in any twelve- (12-)/-] month period;

[72.]34. Transfer, in the general classification service, means a change of an employee from one (1) position to another position in the same class or to another class assigned to the same established pay range. In the broad classification bands, a within-band transfer means a change of an employee from one (1) position to another position in the same class or another class assigned to the same established pay band; an out-of-band transfer means the movement of an employee from a position in a band to a position in a range where the action does not constitute a promotion or demotion. A transfer may involve a change of assignment or work location;

[73.]35. Unclassified service means those positions in agencies subject to the merit system provisions or Uniform Classification and Pay (UCP) provisions contained in the law and these rules, but which [pursuant to 1 CSR 20-1.040(2)] may be established and filled without regard to [1 CSR 20-2.010 and 1 CSR 20-2.020] merit selection hiring processes or provisions governing classification and pay. Agencies having positions in the unclassified service are defined by 1 CSR 20-1.040(1)];

[74. Veteran means any person who is a citizen of this state, who has been separated under honorable conditions

from the armed forces of the United States, who served on active duty during peacetime or wartime for at least six (6) consecutive months, unless released early as a result of a service-connected disability or a reduction in force at the convenience of the government, or any member of a reserve or National Guard component who has satisfactorily completed at least six (6) years of service or who was called or ordered to active duty by the president and participated in any campaign or expedition for which a campaign badge or service medal has been authorized;

75. Veterans' preference and disabled veterans' preference mean the credit allowed veterans in recognition of military service, added to the passing grade earned by them in examination conducted for the establishment of registers; and

76. Waiver means the waiving of any right to consideration for certification and appointment to a position and a request for future consideration.]

(B) Other terms are defined in specific sections elsewhere in these rules.

(C) The definitions of section 36.020, RSMo apply to these rules unless the context clearly requires otherwise.

(D) As used in section 36.030, RSMo, grant-in-aid programs means those federal grant programs that require, as a condition of eligibility, that a department or agency of this state that receives grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program, and shall include those programs listed in Appendix A to Subpart F of 5 CFR Part 900, as well as any other federal programs for which a department or agency of this state has agreed by contract with any agency of the federal government prior to the effective date of this regulation to maintain standards for a merit system of personnel administration consistent with Subpart F of 5 CFR Part 900 and make those standards applicable to personnel involved in the performance of the contract.

(2) Definitions of Terms. The following words and terms, used with specific intent throughout this rule and 1 CSR 20-5.020 or in their administration, are defined for clarity:

(A) Annual leave is a form of compensation authorized by the state and paid to an eligible employee by means of paid time off from work, under the conditions set forth in 1 CSR 20-5.020(1);

(B) Annual leave accrual is the accumulation of hours of paid time off as a form of compensation earned by the employee. Eligibility to earn and accrue annual leave as a form of compensation is limited to a maximum number of hours stipulated by law and set forth in 1 CSR 20-5.020(1);

(C) Sick leave is a benefit granted by the state to the employee in the form of paid time off from work due to illness, under the conditions set forth in 1 CSR 20-5.020(2) or for Personal Wellness Leave as set forth in 1 CSR 20-5.020(2);

(D) Sick leave accrual is the accumulation of hours of eligibility for paid time off from work conferred upon an eligible employee as a benefit by the state for specific purposes and under specific conditions that are set forth in 1 CSR 20-5.020(2);

(E) Personal Wellness Leave is the ability of an employee to use up to one (1) hour of accrued sick leave per month for personal wellness under specific conditions that are set forth in 1 CSR 20-5.020(2)(O);

(F) Paid time off from work authorized by the state and conferred upon the employee by the appointing authority and solely at the discretion of the appointing authority for the purpose deemed appropriate and in the best interest of the state may be called administrative leave; and

(G) A semi-monthly pay period or semi-month is that period of approximately one-half (1/2) of a calendar month established by the Office of Administration as the pay cycle for state employees.

(3) For the purposes of leaves of absence as set out in 1 CSR 20-5.020, state service time will be defined as—

(A) The total length of time of employment in any department, division, or agency of state government that is covered by the provisions of section 36.350, RSMo, and under the conditions set forth in 1 CSR 20-5.020;

(B) Time of state paid employment in the Offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, Treasurer, Attorney General, Houses of the Missouri State Legislature, the Missouri State Judiciary, Missouri State Courts Administrator, Missouri Consolidated Health Care Plan, and Missouri State Employees' Retirement System, will be recognized and accepted as time of state service for the purposes of eligibility for and accrual of paid leaves of absences; and

(C) Employment with other state funded public entities when these entities have been accepted for coverage under the provisions of 1 CSR 20-5.015(3)(B).

(4) For the purposes of leaves of absence as set out in 1 CSR 20-5.020, an eligible employee shall be defined as—

(A) Any employee of the state of Missouri covered by the provisions of section 36.350, RSMo; and

(B) Any state paid employee of elected state officials, specifically employees of the Offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, Treasurer, Attorney General, Houses of the Missouri State Legislature, the Missouri State Judiciary, Missouri State Courts Administrator, Missouri Consolidated Health Care Plan, Missouri State Employees' Retirement System and other state funded public entities, shall be considered eligible employees under 1 CSR 20-5.020 upon submission of written certification of adherence to the provisions of 1 CSR 20-5.020 and acceptance by the Personnel Advisory Board of the public entity for coverage under the rule.

(5) Records. Pursuant to section 36.420, RSMo, the records of the Personnel Division, except examinations, service reports, personal histories, and other records that are or may be closed pursuant to Chapter 610, RSMo, shall be public records and shall be open to public inspection, during regular office hours at reasonable times and in accordance with procedures as the board may prescribe.

AUTHORITY: section 36.070, RSMo Supp. [1998] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 1—Organization and Operation**

EMERGENCY AMENDMENT

1 CSR 20-1.040 [Merit System] Unclassified Service. The board is amending the rule title, deleting sections (1) and (3), and amending existing section (2).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

PURPOSE: This rule defines the [classified and] unclassified service of the state under coverage of [all provisions of] the State Personnel Law.

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007

(2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

[(1) The Classified Service. The classified service shall consist of and all provisions of the State Personnel Law and these rules, including those provisions which relate to selection, appointment, pay, tenure and removal, shall apply to those agencies enumerated in subsection (1)(A) of this rule and other agencies as may be provided for by law or regulations for grant-in-aid programs to maintain personnel standards on a merit basis, except those offices, positions and employees enumerated in subsection (1)(B) of this rule.

(A) All offices, positions and employees of the Department of Mental Health, the Department of Social Services, the Department of Corrections, the Department of Health, the Division of Employment Security, Mine Safety and On-Site Consultation Sections of the Division of Labor Standards, and Administration Operations of the Department of Labor and Industrial Relations, the Department of Natural Resources, the Office of Administration, the Missouri State Water Patrol, the Missouri Veterans' Commission, Capitol Police, and State Emergency Management Agency of the Department of Public Safety, the Divisions of Tourism and Job Development and Training, the Missouri Housing Development Commission and the Office of Public Counsel of the Department of Economic Development.

(B) As provided for in section 36.031, RSMo, persons employed or appointed as attorneys are covered by those provisions of the rules governing classification and pay, but are not subject to those provisions of the State Personnel Law and these rules governing selection, appointment, tenure or removal.]

[(2)](1) [The Unclassified Service.] Certain positions may be established and filled without regard to provisions of the State Personnel Law or of these rules which relate to the classification and allocation of positions or which relate to the selection, appointment, compensation, [tenure] and removal of persons employed in these positions. The following positions [in the agencies covered by the State Personnel Law], as well as others that may be provided in law, including section 36.030.2, RSMo, comprise this unclassified service[, except that merit status will be retained by incumbents of positions which previously have been subject to the law]:

[(A) Within each department established by law, the departmental director, and five (5) principal assistants designated by the departmental director;

(B) Within each division of service, the division director, and three (3) principal assistants designated by the division director, except that the exemptions for principal assistants shall not apply to the Division of Personnel;]

[(C)](A) Deputy(ies) or other policy-making assistants to the unclassified department director or division director as warranted by

the size and complexity of the organization and as approved by the Personnel Advisory Board. Appointing authorities shall submit to the board a written request for each unclassified deputy or other policy-making assistant position describing the size and complexity of the organization, the reasons for requesting the unclassified position, and the relationship of the proposed position to other administrative positions in the agency both classified and unclassified. The duties assigned to unclassified deputies or other policy-making assistants shall not be designed to replace a classified position occupied by an incumbent or to result in the downward reclassification, layoff, or demotion of an incumbent of a classified position;

[(D)](B) The administrative head of each state medical, penal, and correctional institution, as warranted by the size and complexity of the organization and as approved by the board in the same manner and under the same conditions as provided for unclassified deputies and other policy-making assistants; **and**

[(E) Members of boards and commissions and one (1) principal assistant for each board or commission when the members are appointed by the governor or by a director of a department of the executive branch of government;

(F) Chaplains and attorneys regularly employed or appointed in any department or division subject to this law, except as provided in section 36.031, RSMo;

(G) Patients or inmates in state institutions who also may be employees of those institutions;

(H) Persons employed in an internship capacity in a state agency or institution as a part of their formal training at a college, university, business, trade, or technical school except that by appropriate resolution of the governing authorities of any such agency or institution, the Division of Personnel may be called upon to assist in selecting persons to be appointed to internship positions;

(I) Persons employed in work assignments with a geographic location principally outside the state of Missouri;

(J) Special assistants as designated by an appointing authority, except that the number of such special assistants shall not exceed one percent (1%) of a department's total authorized full-time equivalent workforce. The number of special assistants allowed in each department will be determined at the beginning of each fiscal year based on the department's budget as authorized in the previous legislative session, and the authorized number of special assistants shall apply throughout the fiscal year, unless an appointing authority requests a special review during the year because of a significant change in a department's authorized workforce; **and**

[(K)](C) Other persons whose employment is such that **standard selection [by competitive examination]** and standard classification and compensation practices are not practical under all circumstances as determined by the director. The circumstances which justify that determination shall include the following:

1. Cooperative education programs with secondary schools involving part-time employment of students;

2. Positions involving short-term, part-time, or intermittent work schedules which do not exceed the equivalent of one-half (1/2) time in a year, except that this rule will not be used to **[retain] maintain permanent[,]** or continuing **[employees] employment**, or both, in a division of service;

3. New positions for which allocation to an existing class is not practicable when those positions must be filled pending a review of the duties involved and preparation of a class specification for approval by the board;

4. Interns, trainees, and participants in special state or federal training, rehabilitation, or employment programs providing that the objectives of these programs are best served by selection or allocation procedures other than those based on competitive examination or uniform classification and pay; or

5. Situations in which the special needs of the service cannot be met by other appointment or classification and pay procedures pro-

vided in these rules.

[(3) *Conflicting Employment. No employee shall have conflicting employment while in a position subject to the provisions of the law. Each division of service will establish a procedure regarding outside employment and other activities that could potentially be in conflict with the mission and objectives of the division of service or the state service. This procedure will require that employees inform management of outside employment and will include a provision whereby either the employee or the appointing authority may request a determination from the Personnel Advisory Board.*]

AUTHORITY: section 36.070, RSMo [2000] Supp. 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 1—Organization and Operation**

EMERGENCY AMENDMENT

1 CSR 20-1.045 [Uniform Classification and Pay] Covered Service. The board is amending the rule title, purpose, and section (1) and deleting sections (2) and (3).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

PURPOSE: This rule defines the covered [and exempt] service of the state under coverage of the uniform classification and pay provisions of the State Personnel Law contained in section 36.031, RSMo.

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

(1) *[The Covered Service.]* The covered service shall consist of, and the uniform classification and pay provisions of the State Personnel Law and these rules shall apply to, all offices, positions, and employees of those departments and agencies of the executive branch of state government, including attorneys, except for the elective offices, institutions of higher learning, the Department of Highways and Transportation, the Department of Conservation, those positions in the Missouri State Highway

Patrol, the compensation of which is established by sections 43.070 and 43.080, RSMo, those positions for which the Missouri Constitution specifically provides the method of selection, classification or compensation, and employees within these agencies as are specifically exempted from the uniform classification and pay provisions of the law (see section 36.031, RSMo)] as specified in Chapter 36, RSMo.

[(2) *The Exempt Service.* The following offices and positions in the agencies covered by the uniform classification and pay provisions of the law comprise the exempt service and are exempt from the operations of the law and of these rules and may be established without regard to those provisions which relate to the allocation and compensation of positions in those agencies:

(A) Within each department established by law, the departmental director, and five (5) principal assistants designated by the departmental director;

(B) Within each division of service, the division director, and three (3) principal assistants designated by the division director;

(C) Deputy(ies) or other policy-making assistants to the exempt department director or division director as warranted by the size and complexity of the organization and as approved by the Personnel Advisory Board. Appointing authorities shall submit to the board a written request for each exempt deputy or other policy-making assistant position describing the size and complexity of the organization, the reasons for requesting the exempt position and the relationship of the proposed position to other administrative positions in the agency both covered and exempt;

(D) The administrative head of each state medical, penal and correctional institution, as warranted by the size and complexity of the organization and as approved by the board in the same manner and under the same conditions as provided for exempt deputies and other policy-making assistants;

(E) Members of boards and commissions and one (1) principal assistant for each board or commission when the members are appointed by the governor or by a director of a department of the executive branch of government;

(F) Chaplains and attorneys regularly employed or appointed in any department or division subject to this law, except as provided in section 36.031, RSMo;

(G) Patients or inmates in state institutions who also may be employees of those institutions;

(H) Persons employed in an internship capacity in a state agency or institution as a part of their formal training at a college, university, business, trade, or technical school, except that by appropriate resolution of the governing authorities of any such agency or institution, the Division of Personnel may be called upon to assist in selecting persons to be appointed to these internship positions;

(I) Persons employed in work assignments with a geographic location principally outside the state of Missouri;

(J) Special assistants as designated by an appointing authority, except that the number of such special assistants shall not exceed one percent (1%) of a department's total authorized full-time equivalent work force. The number of special assistants allowed in each department will be determined at the beginning of each fiscal year based on the department's budget as authorized in the previous legislative session, and the authorized number of special assistants shall apply throughout the fiscal year, unless an appointing authority requests a special review during the year because of a significant change in a department's authorized work force; and

(K) Other persons whose employment is such that standard classification and compensation practices are not prac-

tical under all circumstances as determined by the director. The circumstances which justify this determination shall include the following:

1. Cooperative education programs with secondary schools involving part-time employment of students;

2. Positions involving short-term, part-time or intermittent work schedules which do not exceed the equivalent of one-half (1/2) time in a year, except that this rule will not be used to retain permanent, or continuing employees, or both, in a division of service;

3. New positions for which allocation to an existing class is not practicable when those positions must be filled pending a review of the duties involved and preparation of a class specification for approval by the board;

4. Interns, trainees and participants in special state or federal training, rehabilitation or employment programs providing that the objectives of these programs are best served by allocation procedures other than those based on uniform classification and pay; or

5. Situations in which the special needs of the uniform classification and pay service cannot be met by the allocation procedures provided in these rules or by allocation through the uniform classification and pay process.

(3) *Implementation.* The personnel director shall conduct job studies and position reviews and establish new and revised job classes as are necessary for appropriate assignment of positions to the covered and exempt services. Upon completion of the job studies and related tasks necessary to integrate an agency into the classification plan administered by the Personnel Advisory Board and Division of Personnel, that agency shall be subject to the rules governing the classification plan as contained in 1 CSR 20-2.010. Following the integration of an agency into the classification plan, compensation of employees within that agency may not exceed the maximum step of the pay range for the class to which their individual position is assigned, except that any employee whose salary exceeds the established maximum at that time will be subject to the provisions of 1 CSR 20-2.020(4)(D)6. The full pay plan provisions contained in 1 CSR 20-2.020 shall be made applicable to the agency when the funds necessary to adjust employees to steps within the assigned pay ranges have been appropriated and made available.]

AUTHORITY: sections 36.031 and 36.070, RSMo Supp. [1995] 2018. Original rule filed Feb. 25, 1992, effective Aug. 6, 1992. Amended: Filed May 15, 1996, effective Nov. 30, 1996. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 2—Classification and Pay Plans**

EMERGENCY AMENDMENT

1 CSR 20-2.010 The Classification Plan. The board is deleting section (1) and amending existing sections (2) and (3).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule

is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

[(1) Preparation of Plan. The director shall ascertain the duties, authority and responsibilities of all positions subject to the law. At the earliest possible date after a division of service or branch becomes subject to the provisions of the law and after consultation with the appointing authority involved, the director shall prepare and recommend to the Personnel Advisory Board a plan for the classification of the affected positions. This plan shall group positions in a division of service in classes, based on their duties, authority and responsibilities. The position classification plan shall set forth for each class of position, a class title and a statement of the duties, authority and responsibilities the knowledges, skills and abilities, and the qualifications that are necessary or desirable for the satisfactory performance of duties of the class; provided that no plan shall be adopted which prohibits the substitution of experience for education for each class of position excepting a class of position as may be designated by the appointing authorities as required to be filled on the basis of educational qualifications in order to comply with federal law or regulations. Upon adoption by the Personnel Advisory Board, the plan for position classification in a division of service shall become part of the general classification plan for the classified and covered service (see section 36.100, RSMo).]

[(2)](1) The classification plan shall be maintained as follows:

(A) Revisions of Plan. The classification plan shall be so developed and maintained that all positions substantially similar with respect to the kind, difficulty, and responsibility of work are included in the same class[;] and that the same schedule of pay may be applied with equity to all positions in a class (see section 36.110, RSMo). [Whenever any change in organization, creation of a new position or change in duties or responsibilities of individual positions makes the revision of the classification plan necessary, the director shall recommend the necessary revisions to the board. Any change in the classification plan recommended by the director shall take effect when approved by the board or on the ninetieth day after it is recommended to the board if the board shall not have previously disapproved it. Whenever, in the opinion of the director, there is an urgent necessity for the immediate establishment of a new class in the classification plan, the director may establish a class on an interim basis, pending approval of the class by the board as recommended by the director. After a class of positions has been approved by the board, the director is authorized to make those changes in the class title or in the statement of duties and required qualifications for the class as the director finds necessary for current maintenance of the classification plan; provided, however, that changes which materially affect the nature and level of a class or which involve a change in salary range for the class shall be approved by the

board (see section 36.120, RSMo);]

[(B) Allocation of New Positions. Before establishing a new position in a division of service subject to the law, an appointing authority shall notify the director in writing of his/her intention to do so, together with a statement of the duties, authorities and responsibilities to be assigned. The director shall allocate any new position to a class (see section 36.120, RSMo);

(C) Reallocation of Positions Necessitated by Revisions of Plan. If any change is made in the classification plan by which a class of position is divided, altered or abolished or classes combined or a new class established, the director shall reallocate the positions affected to their appropriate classes in the amended classification plan and shall determine comparability and relative level between the old class and the classes in the revised plan. For positions in the classified service, a regular employee who is occupying a position thus reallocated shall be given status as a regular employee in the class to which his/her position is reallocated, subject to the following conditions (see section 36.120, RSMo):

1. If the class to which his/her position in the classified service was reallocated is of higher level or of a level similar to the class to which it was previously allocated s/he shall be deemed to have gained status as a regular employee in such class by means of upward or lateral reclassification; provided, however, that the director may require that the employee achieve a satisfactory grade in a noncompetitive test for fitness for the class to which his/her position has been reallocated; and

2. If the class to which his/her position in the classified service was reallocated is of lower level than the class to which it was previously allocated, s/he shall be given status as a regular employee in the class by means of downward reclassification, or s/he shall be transferred to a position in a class of level comparable to the class to which his/her position was previously allocated. In any case in which a regular employee continues in the reallocated position by means of a downward reclassification, his/her name, subject to the approval of the director, may be placed on the reinstatement register for the class to which his/her position was previously allocated or on any other appropriate reinstatement register; and]

[(D)](B) Reallocation of Positions Within the Established Plan. The director may investigate the duties of any position in the classified and covered service subject to the law to determine the correctness of allocation and to provide for maintenance of the classification plan. Before making any permanent and substantial change in the duties, authority, or responsibilities of a position subject to the law, an appointing authority shall notify the director in writing of his/her intention to do so, together with a statement of the duties, authorities, and responsibilities to be assigned. If the duties of his/her position are changed, or if at any time an employee does not believe that the duties of the position are appropriate to his/her classification, s/he may make a request in writing to the director for a review of the duties of his/her position, setting forth reasons for the review. If those reasons appear to be substantial, the director shall make an investigation of the position with a view to determining the correctness or incorrectness of the allocation (see section 36.120, RSMo). If a position is found to be incorrectly allocated, the director, at any time, may reallocate the position to its appropriate class in the classification plan. When the allocation of a position is changed, the director shall notify the appointing authority. The appropriate personnel action shall be taken by the appointing authority upon receipt of the notice of reallocation. If the position is filled at the time of reallocation, the appointing authority immediately shall notify the incumbent regarding the allocation change. If the incumbent does not agree with the new allocation, s/he may submit to the director in writing a request for a review of the allocation of the position specifying the

reasons why the incumbent believes the allocation is incorrect. An [regular] employee who is occupying a position [in the classified service] which is reallocated to a different class shall continue in this position only [in accordance with the rules governing promotion, transfer, demotion or, with the approval of the director, by reclassification, except that in any case in which a position is reallocated to a higher class, the position's incumbent, with the approval of the director, may attain regular status in the higher class] if s/he [achieves a satisfactory grade on a noncompetitive test of fitness for the] **meets the minimum qualifications for the class** to which his/her position was reallocated.

[(3)](2) Class specifications and class titles shall be provided and used in the classification plan as follows:

(A) Content of Specifications. The director shall provide and may amend as provided in subsection [(2)(A)] (1)(A) written specifications for each class in the classification plan. Each of the class specifications shall include a class title, a description of the duties, authority, and responsibilities of the work, the knowledge[s], skills and abilities, and a statement of the qualifications that are necessary or desirable for the satisfactory performance of the duties of the class;

(B) Interpretation of Class Specifications. The statement in the class specifications are descriptive and not restrictive. They are intended to indicate the kinds of positions that are allocated to the established classes as determined by their duties and responsibilities and are not to be construed as declaring what the duties or responsibilities of any position may be or as limiting or modifying the power of an appointing authority to assign, direct, and control the work of employees under his/her supervision. The use of a particular expression or illustration as to the duties shall not be held to exclude others not mentioned that are of a similar kind or quality nor shall any specific omission necessarily mean that a factor is not included; **and**

(C) Use in Allocation. In determining the class to which any position should be allocated, the director shall consider the specification describing each class as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities, the necessary or desirable knowledge[s], skills and abilities, the qualifications required, and relationships to other classes; **and**].

[(D) Class Titles. Following the adoption of the classification plan and the allocation of classes in positions in the classified or covered service, the class titles set forth shall be used to designate those positions in all official records, vouchers, payrolls and communications. No person shall be appointed to or employed in a position in divisions of the service subject to this law under a class title which had not been approved by the director as appropriate to the duties performed (see section 36.130, RSMo).]

AUTHORITY: section 36.070, RSMo [1986] Supp. 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 2—Classification and Pay Plans**

EMERGENCY AMENDMENT

1 CSR 20-2.015 Broad Classification Bands [for Managers]. The board is amending sections (1)–(3) and (6) and deleting existing sections (4) and (5).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

PURPOSE: The board is establishing this rule to provide for the broadbanding of [manager] positions within agencies covered by the uniform classification and pay provisions of the State Personnel Law. This rule provides for the formation and administration of a system of broadbanding applicable to [manager] positions within affected state agencies. The Division of Personnel and the Personnel Advisory Board may exercise authority and responsibility for preparation, adoption, maintenance, and revision of that part of the classification and pay plan which includes provisions for grouping of [management] positions with similar levels of responsibility or expertise into broad classification bands in the classified and covered services. This rule provides the framework within which this authority may be exercised.

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

(1) Standards and Methods. After consultation with appointing authorities or their designated representatives, the director shall establish and maintain the standards and methods for identifying [management] positions subject to the law for broad classification bands and pay band designations.

(2) Classification Plan. The provisions of 1 CSR 20-2.010 [The Classification Plan] are applicable in the preparation and maintenance of broad classification bands [for managers], except as specifically outlined in this section[,] or necessary for implementation. The class specifications for broadbanded classifications shall be designed to encompass a broad spectrum of [management] positions in generic and agency-specific classes, or may provide for broader applications when the director determines that agency and system needs can be met in a consistent, equitable, and appropriate manner.

(A) Preparation of the Plan. The director shall ascertain the duties, authority, and responsibilities of [all manager] positions subject to the law. [Positions that do not meet the standards for broad classification bands for managers will be evaluated for assignment to classes determined to be more appropriate in the general classification plan under 1 CSR 20-2.010.] The broad classification bands shall group [manager] positions in very broad classes which generally describe the duties, authority, and responsibilities of [managers] positions and cover [all] various pay band levels. The [manager] broadbanded class specifications are not specific to individual positions or programs. Two (2) kinds of broadbanded [manager] classes, common-use and agency-specific may be used. Common-use classes will accommodate functions which cross agency lines. Agency-specific classes will encompass functions distinct to an individual agency. Each [manager] broadbanded class specification will

have a class title; statement of the duties, authority, and responsibilities; examples of duties performed; knowledge, skills, and abilities; and the necessary qualifications, provided that equivalent substitutions will be allowed for deficiencies in education or experience. Upon adoption by the Personnel Advisory Board, the broadbanded *[manager]* classes shall become part of the uniform classification and pay plan.

(B) Allocation of a Position. Before establishing a new *[manager]* broadbanded position subject to the law, an appointing authority shall provide the director with a written statement of the duties, authority, and responsibilities to be assigned. The director will determine an appropriate *[manager]* class and pay band assignment based on the duties, authority, and responsibilities of the position.

[(C) Reallocation of a Position Into, Within, and Out of the Broad Classification Bands. If a position in the classified service is reallocated to a different class and/or band or range, the employee shall continue in the position only in accordance with the rules governing appointments, transfers, demotions or, with the approval of the director, by reclassification. If any change is made in the broadbanded manager classes, the director shall reallocate the positions affected to an appropriate class in the amended plan. For positions in the classified service, an employee who is occupying a position reallocated to a different class shall be given the same status in the new class and band or range as previously held in the class and band or range from which his or her position is reallocated (see section 36.120, RSMo).]

(3) Compensation Structure. The director will recommend to the board establishment and adoption of pay bands as considered necessary and equitable in order to group and maintain positions with similar levels of *[management]* responsibility or expertise. The provisions of 1 CSR 20-2.020 *[The Pay Plan]* are applicable in the preparation, adoption, maintenance, and administration of the pay plan for broad classification bands, except as specifically outlined in this section or necessary for implementation.

[(A) Preparation. The pay plan may include provision for grouping of management positions with similar levels of responsibility or expertise into broad classification bands for purposes of determining compensation and provision for such salary differentials and other pay structures as the director considers necessary or equitable. The broad classification bands shall include a minimum and a maximum rate, and such intermediate rates of pay as the director considers necessary or equitable. The initial pay plan for divisions of service, when first brought under the provisions of the law, shall be prepared in this same manner and, upon adoption, become a part of the general pay plan.]

[(B)](A) Administration. The implementation and ongoing administration of pay within the broad classification bands shall be conducted in a manner which promotes equitable pay relationships and the efficient and effective practice of personnel administration. When the meaning and purpose of a rule is not otherwise affected, the term band may replace range. [Appointing authorities shall have a responsibility to exercise the discretion included in these rules in a manner which avoids inconsistent, arbitrary, or discriminatory pay actions.] The pay plan for the broadbanded system shall be administered in accordance with 1 CSR 20-2.020 and the following provisions:

1. Appointment rate. The initial appointment rate to a position in a broad classification band is at the discretion of the appointing authority. In making these determinations, consideration should be given to the individual's qualifications, permanent position-related factors, such as working conditions or physical location of work, and/or recruitment or staffing needs. *The proposed rate of pay should not exceed that which is being paid to present employees with comparable qualifications in similar position-related circumstances;*

2. Salary advancements. Salary advancements within the band

occupied by an employee are of three (3) types: probationary salary advancements, specific salary advancements authorized during a fiscal year, and discretionary salary advancements, administered in accordance with the following provisions:

A. A probationary salary advancement is *[authorized]* permitted for an employee covered under section 36.030.1(2), RSMo, upon successful completion of the *[initial]* probationary period. An appointing authority may grant a salary advancement following successful completion of a probationary period in a *[higher level]* band or after an appropriate period of time following upward reclassification;

B. Within-grade, market progression, or other specific salary advancements within the pay bands, which are only authorized during a fiscal year when specific funding has been appropriated *[for all agencies]*, will be implemented in accordance with guidelines and instructions issued by the board;

C. Discretionary salary advancements may be granted by an appointing authority as warranted by the needs of the service. *For classified positions in the broadbanded service, discretionary salary advancements cannot be given during a probationary period, unless approved by the director of the Division of Personnel in cases where it does not affect competitive appointments that would compromise the selection group as enumerated in 1 CSR 20-3.030(3)(A);* and

D. In the broadbanded *[management]* service, a conditional salary advancement is a discretionary within-band advancement associated with the assignment of higher level duties or responsibilities of a permanent nature. At the discretion of the appointing authority, and without appeal to the Administrative Hearing Commission, such higher level duties and responsibilities and the associated conditional salary advancement may be withdrawn *[within a period of time not to exceed twenty-four (24) months]* as specified by the appointing authority. When a conditional salary advancement is established, the appointing authority will provide the affected employee with written notice describing the conditions under which the advancement is given and the *[time frame during]* conditions under which it can be withdrawn.

[(C)](B) Within-Band Salary Decreases. Salary reductions within the band may be made for any amount by the appointing authority. Reasons for such decreases include: changes in duties or organization which do not adversely reflect on the employee; within-band movement to a position of lesser value; a permanent and substantial decline in the scope or complexity of assignment; or,] an involuntary within-band transfer for cause such as inadequate performance or misconduct as provided for in 1 CSR 20-3.070(2). An involuntary salary decrease within the band, when applied to the salary of a classified employee covered under section 36.030.1(2), RSMo, other than one (1) associated with a conditional salary advancement, shall be treated as a demotion and may be appealed by the affected employee in accordance with [1 CSR 20-4.010(1)(D)] statute and these rules.

[(D)](C) Pay Rates in Transfer, Promotion, Reclassification, or Demotion. If an employee is transferred, promoted, reclassified, or demoted, the rate of pay, giving consideration to equity, shall be as follows:

1. An employee's rate of pay must fall within the minimum and maximum of their assigned pay band, except as provided for in paragraph *[(3)(D)3.] (3)(C)3.* of this rule;

2. An employee's rate of pay within the appropriate band will depend on the type of personnel transaction. Consistent application of formulas or guidelines by appointing authorities in cases of promotions, reclassifications, and demotions will promote equitable treatment of employees affected by these actions.

A. In the case of within-band transfer, which involves a change of an employee from one (1) position to another position in the same class or another class assigned to the same established pay band and which may involve a change of assignment or work location, the salary rate shall be determined by the appointing authority.

B. In the case of promotion or upward reclassification, which

involves a change of an employee from a position in one (1) band to a position in a higher band, the salary rate [shall] may be increased, or, at the discretion of the appointing authority, may stay the same.

C. In the case of voluntary demotion, demotion for cause, or downward reclassification, which involves movement from one (1) band to a lower band, the salary rate will be at the discretion of the appointing authority.

D. In the case of an out-of-band transfer, which involves movement from a pay band to a pay range, the employee may accept a voluntary reduction in salary. *If the rate of pay does not correspond to an established step in the range, the rate of pay shall be adjusted to the next higher step in the range.* **For employees covered under section 36.030.1(2), RSMo, an involuntary salary reduction is considered a demotion and may be appealed by the affected employee in accordance with [1 CSR 20-4.010(1)(D)] statute and these rules; and**

3. If an employee's previous rate of pay is more than the maximum rate established for the pay band to which the position is assigned, the employee's rate of pay may be approved in accordance with the following provisions:

A. When a department, division, work unit, class of employees, or other entity of state government is initially made subject to the classification provisions of the State Personnel Law, the Personnel Advisory Board may approve salary rates above the established maximum rates for the affected employees. In each case where an above-the-maximum rate has been authorized by the Personnel Advisory Board, the rate of pay will be clearly recorded as an above-the-maximum rate, and the affected employee will not be eligible for any additional type or amount of salary adjustment or advancement until the rate of pay falls within the pay band to which the position is assigned;

B. When a position is reallocated to a lower pay band or to a pay range, the appointing authority, with approval of the personnel director, may elect to establish an above-the-maximum rate. If the appointing authority elects to establish an above-the-maximum rate, the rate of pay will be clearly recorded as an above-the-maximum rate, and the affected employee will not be eligible for any additional type or amount of salary adjustment or advancement until that time as his/her rate of pay shall fall within the pay band or pay range to which the position is assigned; and

C. An above-the-maximum rate established under subparagraphs [(3)(D)3.A.] (3)(C)3.A. and B. will continue while the employee remains in the same or higher pay band in the same department and is above-the-maximum rate for the assigned band. The payment of a differential authorized by the Personnel Advisory Board will be allowed where applicable, and the salary of an affected employee who enters or exits a position covered by this differential will be adjusted in a manner consistent with agency policy and practice. When an employee receiving an above-the-maximum rate of pay transfers to a position in the same class and pay band in another department covered by the classification and pay provisions of the State Personnel Law, the appointing authority of the receiving agency shall have the discretion to continue the authorized above-the-maximum rate, to establish a different, but lower rate of pay which exceeds the established maximum of the appropriate pay band, or to reduce it to a rate within the pay band for the position. Once the pay band can accommodate the rate of pay, the above-the-maximum rate will be void and the employee's compensation will be subject to the provisions contained elsewhere in the rules.

[(4) Certification and Appointment. The provisions of 1 CSR 20-3.030 Certification and Appointment are applicable in the administration of broad classification bands for managers in agencies covered by the merit system provisions of the State Personnel Law, except as specifically outlined in this section or necessary for implementation. This section prescribes the conditions under which broadbanded manager positions in the classified service may be filled by certifi-

cation and appointment from merit system registers and by other types of appointment authorized in the merit system law.

(A) *Reinstatement. When vacancies to be filled in a class occur in a division of service from which employees in the class have been laid off, or demoted in lieu of layoff, certification from the reinstatement register first shall be limited to previous employees of the division of service until all the available employees have been reinstated in order of rank on reinstatement register.*

(B) *Within-Band Transfers. An appointing authority may assign an employee in the classified service with regular status from one (1) position to another position in the same pay band in the same or different class, providing the employee possesses the necessary qualifications. Such transfer of an employee from one (1) division in the classified service to a position in another division in the classified service may be made with the approval of the director and both appointing authorities. Upon making this assignment, the appointing authority shall prepare and submit the necessary personnel transaction. Transfers of employees made because of a layoff or shortage of work or funds which might require a layoff shall be governed by 1 CSR 20-3.070 and the layoff procedures adopted.*

(C) *Out-of-Band Transfer. An out-of-band transfer is the movement of an employee from a position in a band to a position in a range which does not require a change in salary. The employee must possess the qualifications for the class. Such transfers may be voluntary or involuntary. In the case of a permanent involuntary transfer of an employee from a position in a band to a position in a range, the appointing authority shall give written notice of the action to the director and to the employee thirty (30) days prior to the effective date of the action. Within thirty (30) days of receipt of such notice, the affected employee may make a written request for review by the director. The request must include the employee's reasons for requesting review, including the degree of economic and professional impact of the action and why, in the employee's opinion, the action was not for the good of the service. The director shall conduct an appropriate investigation, taking into consideration information received from the employee and the appointing authority, and shall approve or disapprove the transfer. Both the employee and the appointing authority are notified of the director's decision.*

(D) *Reemployment. Any person who has obtained regular status in a class and band in a classified position and who has resigned from state service in good standing may be reemployed without competitive certification in the same class and the same or lower band at the discretion of an appointing authority. Any person who has successfully served at least one (1) year in a covered position in the uniform classification and pay service as defined by section 36.031, RSMo, and who has resigned from state service in good standing or who has accepted demotion or transfer for personal reasons, may be reemployed in a merit service agency without competitive certification in the same class and the same or lower band at the discretion of the appointing authority provided the employee possesses the qualifications and has successfully completed an examination for the class involved.*

(5) *Probationary Period. The probationary or working test period shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his/her position, and for rejecting any employee whose performance does not meet the required work standards.*

(A) *Duration. Every person given an initial appointment,*

inter-band appointment to a position in a higher band, or reemployment appointment shall be required to successfully complete a working test. An employee reinstated by the same appointing authority after a two (2)-year period from the date of layoff would serve a probationary period; an employee reinstated by a different appointing authority at any time will also serve a probationary period. The normal length of probation for managers in the broad classification bands shall be twelve (12) months. The maximum length of probation shall be eighteen (18) months and the minimum length of probation shall be six (6) months for managers serving initial or inter-band appointment to higher bands. An employee successfully completing a probationary period following an initial or inter-band appointment shall be considered a regular employee with respect to the class and band as defined in section 36.020 (14), RSMo, and shall have all the rights and privileges accorded regular employees under section 36.390. 5., RSMo.

(B) Restoration Rights. An employee given an inter-band appointment from a lower band to a higher band in the broad classification service who does not successfully complete the promotional probationary period shall be reinstated to a position in the class and band occupied by the employee immediately prior to promotion or in another manager class in the same band. An employee appointed from a position in a class assigned to a pay range to a position in the broad classification bands who does not successfully complete the probationary period shall be reinstated to a position in the class and pay range occupied immediately prior to the appointment or in a comparable class.]

[(6)](4) Separation, Suspension, and Demotion. The provisions of 1 CSR 20-3.070 are applicable in the administration of broad classification bands [for managers in agencies] for positions covered by [the merit system provisions of the State Personnel Law] section 36.030.1(2), RSMo, except as specifically outlined in this section, or necessary for implementation.

[(A) Layoffs in the broad classification bands shall be conducted by class and band, or through the application of 1 CSR 20-3.070(1)(G) when special circumstances exist and the needs of the service so require.]

[(B)](A) Demotions. An appointing authority may not demote an employee [in accordance with the following:

1. No demotions] for cause [shall be made] unless the employee to be demoted meets the minimum qualifications for the lower position demoted to, and [shall not be made if any] no regular employee in the affected class and band or range would be laid off by reason of the action[; and].

2. A regular employee shall be demoted in lieu of layoff within the employee's division of service to a position in a lower band in the same class; or shall be demoted in lieu of layoff within the employee's division of service to a position in a class in which the employee previously has obtained regular status within any merit system agency. Such action shall be taken upon written request by the affected employee to the appointing authority and shall occur even though this action may result in a layoff in the class to which the employee is demoted. The appointing authority may also, upon written request of the regular employee affected, demote such employee in lieu of layoff to a position in the employee's division of service for which the employee meets the qualifications, even if these actions may result in additional layoffs. In the event of a demotion in lieu of layoff, an employee shall have his/her name placed on the appropriate register. Transfers in lieu of layoff will be governed by 1 CSR 20-3.070(1)(H).]

AUTHORITY: section 36.070, RSMo [2000] Supp. 2018. Original rule filed March 11, 1999, effective Sept. 30, 1999. For intervening

history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the *Missouri Register*.

Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 2—Classification and Pay Plans

EMERGENCY AMENDMENT

1 CSR 20-2.020 The Pay Plan. The board is deleting sections (1), (2), and (5), renumbering and amending existing sections (3) and (4) as necessary, and adding a new section (3).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

[(1) Preparation. After consultation with appointing authorities and the state fiscal officers and after a public hearing, the director, from time-to-time as circumstances require, shall prepare and recommend to the board a pay plan for all classes subject to the State Personnel Law. The pay plan shall include for each class of positions, a pay range with a minimum and a maximum rate, and such provision for intermediate rates of pay as the director considers necessary or equitable. The pay plan may include provision for grouping of management positions with similar levels of responsibility or expertise into broad classification bands for purposes of determining compensation and provision for such salary differentials and other pay structures as the director considers necessary or equitable. In establishing the rates and ranges of pay, the director shall give consideration to the experience in recruiting for positions in the state service, the rates of pay prevailing in the state for the services performed and for comparable services in public and private employment, living cost, maintenance or other benefits received by employees and the financial condition and policies of the state. The initial pay plan for divisions of service or branches, when first brought under the provisions of the law, shall be prepared in this same manner and, upon adoption, become a part of the general pay plan.

(2) Adoption. The pay plan shall take effect when approved by the board and the governor. Each employee appointed to

a position subject to these rules, after the adoption of the pay plan, shall be paid according to the provisions of the pay plan for the position in which s/he is employed; provided that the commissioner of administration certifies that there are funds appropriated and available to pay the adopted pay plan. The pay plan also shall be used as the basis for preparing budget estimates for submission to the legislature as these budget estimates concern payments for services performed in positions subject to the State Personnel Law.]

[(3)](1) Effect of Amendments, Revisions, and Additions. When amendments or revisions to the pay plan are effective, rates of pay of employees [shall be] are adjusted [to that step] in the amended scale comparable to the [step in the old] prior scale[, unless]. [a] A lesser adjustment [is] may be specifically requested and justified by an appointing authority and approved by the director. This approval [shall be] is conditioned upon uniformity of treatment for all employees of a division of service. When a new or revised class of positions is established in the classification plan, the director [shall] recommends for approval of the board an appropriate pay range within the pay plan.

[(4)](2) Administration. The implementation and ongoing administration of the pay plan [shall] will be conducted in a manner which promotes [equitable pay relationships and the] efficient and effective practice of personnel administration. [Appointing authorities shall have a responsibility to exercise the discretion included in these rules in a manner which avoids inconsistent, arbitrary or discriminatory pay actions.] The pay plan [shall] will be administered in accordance with the following provisions:

[(A)] Appointment Rate. The minimum rate of pay for a class normally shall be paid upon appointment to the class. The following are exceptions to this practice:

1. If an appointing authority determines that the qualifications of an applicant substantially exceed those normally expected of beginning employees in the class involved, or if an appointing authority determines, based on permanent position-related factors, such as working conditions or physical location of work, that the beginning rate of pay for an individual position or group of positions is insufficient to meet recruitment or staffing needs, an appointment at a rate above the minimum rate is authorized. In these cases, the proposed rate of pay should not exceed that which is being paid to present employees with comparable qualifications or to present employees in similar position-related circumstances; and

2. If an appointing authority finds that the beginning rate of pay for a given class of positions is insufficient to meet minimum recruitment needs, either statewide or in selected areas of the state, the appointment of employees in that class may be made at a higher rate of pay. In these cases, employees in the affected class and area should be advanced at least to the proposed new rate. Establishment of class-wide recruitment rates should be based on the appointing authority's recruitment and retention experience, register experience, local competitive salary data, effect of rates on other classes utilized by the agency and the budgetary impact of establishing those rates;]

[(B)](A) Salary Advancements. Salary advancements within the pay range for the class occupied by an employee are of three (3) types: probationary salary advancements, specific salary advancements authorized during a fiscal year, and discretionary salary advancements, administered in accordance with the following provisions:

1. A probationary salary advancement of up to [two (2) steps] four percent (4%) is [authorized] permitted for an employee upon successful completion of the original probationary period. As used in this paragraph, successful completion means the granting of regular

employee status to a probationary employee, rather than the evaluation attained in the performance appraisal. An appointing authority may grant a probationary salary advancement of up to [two (2) steps] four percent (4%) following successful completion of a promotional probationary period or completion of six (6) months of service following upward reclassification;

2. Within-grade, market progression or other specific salary advancements which are only authorized during a fiscal year when specific funding has been appropriated for all agencies. When such funding is approved and appropriated by the legislature, the Personnel Advisory Board will issue guidelines and instructions for implementation of these provisions. Within-grade, market progression, or other specific salary advancements may be for [one or more steps or for] varying amounts or percentages within the range for the class, and may be based on length of total state service, performance appraisal, time in class, relative market position within the range, or any combination of these or other factors;

3. Discretionary salary advancements may be granted by an appointing authority as warranted by the needs of the service[, except that the appointing authority shall have a responsibility to exercise this discretion in a manner which avoids inconsistent, arbitrary or discriminatory pay actions. For positions in the classified service, discretionary salary advancements cannot be given during the probationary period, unless approved by the director of the Division of Personnel in cases where it does not affect competitive appointments that would compromise the selection group as enumerated in 1 CSR 20-3.030(3)(A)]; and

4. The probationary salary advancement and the specific salary advancement authorized during a fiscal year as described in paragraphs [(4)](B)1.] (2)(A)1. and 2. [shall] will be given to eligible employees to the extent that funds are available for implementation of these provisions. No employee [shall] can be denied a probationary salary advancement or specific salary advancement authorized during a fiscal year as described in paragraphs [(4)](B)1.] (2)(A)1. and 2. in order to provide a salary advancement to another employee authorized under paragraph [(4)](B)3.] (2)(A)3.;

[(C)](B) The provisions of this rule pertaining to salary advancements [shall] do not apply to salary adjustments made in accordance with section [(3)] (1) when revisions occur in the pay plan;

[(D)](C) Pay Rates in Transfer, Promotion, Reclassification, or Demotion. If an employee is transferred, promoted, reclassified, or demoted, the employee's rate of pay [shall be] is determined as follows:

1. If the rate of pay in the previous class is less than the minimum rate established for the new class, the rate of pay [shall be] is advanced to at least the minimum for the new class;

2. If the rate of pay in the previous class is more than the maximum rate for the new class, the pay [shall be] is reduced to the maximum rate for the new class or lower for purposes of equity, except as provided for in paragraph [(4)](D)6.] (2)(C)4. of this rule;

3. If the rate of pay in the previous class falls within the range of pay for the new class [and at an established step of the new range], the salary rate will depend on the type of personnel transaction. In the case of transfer or lateral reclassification, the salary rate [shall] remains the same unless otherwise provided by the appointing authority due to equity considerations. In the case of promotion or upward reclassification, the salary rate [shall] may be increased [one (1) step or more]. In the case of downward reclassification, voluntary demotion, or demotion for cause, the salary rate [will] may be reduced [one (1) step or more] as justified by the difference in salary levels between the class to which demoted and the class previously held, or for purposes of equity. At the discretion of the appointing authority, the salary rate in the case of voluntary demotion or downward reclassification may remain unchanged; and

4. If the rate of pay in the previous class falls within the range of pay for the new class but does not correspond to an established step in the new salary range, it shall be advanced to at least the next higher step if the action is a

promotion or upward reclassification or decreased to, at least, the next lower step or more for purposes of equity if the action is a demotion or downward reclassification;

5. *The following upward reclassification or promotional salary increase formula may be used as a guide when exceeding the mandatory one (1)-step increase. By formula, the number of steps the salary may be increased is one (1) more than the number of pay ranges by which the new class exceeds the previous class. Consistent application will promote equitable treatment of employees affected by these actions; and]*

[6.]4. If the rate of pay in the previous class is more than the maximum rate established for the new class, a salary rate above the maximum rate for the new class may be approved in accordance with the following provisions:

A. Where a department, division, work unit, class of employees, or other entity of state government is initially made subject to the classification provisions of the State Personnel Law, the Personnel Advisory Board may approve salary rates above the established maximum rates for the affected employees in job classes to which the newly-allocated positions are assigned. Similarly, if a series of classes or a single class of positions within the classification plan is restructured, altered, or abolished, the Personnel Advisory Board may approve above-the-maximum rates for affected employees, upon recommendation of the appointing authority. In each case where an above-the-maximum rate has been authorized by the Personnel Advisory Board, the rate of pay will be clearly recorded as an over-the-range rate, and the affected employee will not be eligible for any additional type or amount of salary adjustment or advancement until the rate of pay falls within the range of pay for the class to which the position is allocated;

B. Where a position is reallocated to a lower class by action of an appointing authority under delegated allocation authority or by the Division of Personnel, the appointing authority, with approval of the personnel director, may elect to continue the incumbent employee's rate of compensation at the above-the-maximum rate, establish a lower rate of pay which exceeds the established maximum for the class, or reduce the salary to an equitable rate within the authorized range of pay for the lower class as provided for in paragraph [(4)(D)2.] (2)(C)2. If the appointing authority elects to establish an above-the-maximum rate, the rate of pay will be clearly recorded as an over-the-range rate, and the affected employee will not be eligible for any additional type or amount of salary adjustment or advancement until that time as his/her rate of pay [shall] falls within the range of pay for the class to which the position is allocated; and

C. An over-the-range rate established under subparagraphs [(4)(D)6.A.] (2)(C)4.A. and B. will continue while the employee remains in the same, comparable, or higher classification in the same department. The payment of a differential authorized by the Personnel Advisory Board will be allowed where applicable, and the salary of an affected employee who enters or exits a position covered by this differential will be adjusted in a manner consistent with agency policy and practice. Where an employee receiving an over-the-range rate of pay maintains continuous state employment but accepts a position in the same, comparable, or higher classification in another department covered by the classification and pay provisions of the State Personnel Law the appointing authority of the receiving agency [shall have] has the discretion to continue the authorized over-the-range rate, to establish a lower rate of pay which exceeds the established maximum for the class, or to reduce it to an equitable rate within the authorized range of pay for the class. Once the range of pay for the class occupied by the employee can accommodate the rate of pay, the over-the-range rate will be void and the employee's compensation will be subject to the provisions contained elsewhere in the rules; and

[(E)](D) Total Remuneration. The salary rate established in the pay plan is intended as remuneration for the performance of full-time work in accordance with 1 CSR 20-5.010(1)(A). Employees may receive additional payments as follows: overtime payments in accor-

dance with 1 CSR 20-5.010(1); pay differentials and performance incentive payments as authorized by the Personnel Advisory Board; suggestion award payments authorized by section 36.030, RSMo, of the State Personnel Law; reimbursement for official travel as permitted by 1 CSR 10-11.010; and nonmonetary income or fringe benefits, which represent provisions made to an employee primarily for the benefit of the state. Subsistence deductions from the pay of an employee for articles provided at a state-owned facility primarily for the benefit of the employee are not considered to be a reduction in total remuneration of the employee.

[(15) Certification of Payroll. No state disbursing or auditing officer shall make or approve or take any part in making or approving any payment for personal service to any person employed in a division of service unless this person is appointed and employed in accordance with the provisions of the law and these rules. Changes in employment conditions or status which are governed by the law and the rules adopted shall be subject to the same conditions. The director shall establish the procedure necessary to secure compliance with this section. Any sum paid contrary to any provision of the law or of these rules may be recovered for the state in an action maintained by any citizen of Missouri, from any officer who made, approved or authorized payment or who signed or counter-signed a voucher, payroll, check or warrant for the payment or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the state treasury. Any citizen of Missouri may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of the law or of these rules (see section 36.330, RSMo).]

(3) Reports. The director will prescribe the necessary mechanism(s) for reports of all personnel changes in the service. These will provide the instructions for submitting the supporting or otherwise pertinent information as the director may deem to be needed. The instructions to appointing authorities will explain which of the changes call for prior approval of the director before they may become effective, which of them require reports when made, and which of them need to be reported sufficiently in advance of the end of the payroll period to permit them to be given effect in the checking and approval of the next payroll.

AUTHORITY: sections 36.060 and 36.070, RSMo Supp. [1995] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 3—Personnel Selection, Appointment,
Evaluation and Separation**

EMERGENCY AMENDMENT

1 CSR 20-3.010 Examinations. The board is deleting sections (1)–(8), (12), and (14) and amending and renumbering existing sections (9)–(11) and (13).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

[(1) Conduct of Examinations. The director from time-to-time shall conduct open competitive examinations and promotional examinations as the director considers necessary for the purpose of establishing registers of eligibles and promotional registers. The examinations shall be of such character as to determine the relative qualifications, fitness, and ability of the persons tested to perform the duties of the class of position for which a register is to be established. Persons with disabilities shall be examined in such a manner as the director determines necessary to fairly test their ability to perform the duties of the class of positions or the position involved.]

(2) Examinations shall be announced under the following conditions:

(A) Public Notice. The director shall give public notice of each open competitive examination and promotional examination sufficiently in advance of that examination and sufficiently widespread in scope to afford persons who are interested in participating in the examination a reasonable opportunity to apply. The time elapsing between the official announcement of an examination and the holding of an examination shall be not less than two (2) calendar weeks, except that a lesser period of advance notice may be permissible under the regulations when the examination is conducted under the provisions of section 36.320(3), RSMo, or when needs of the service pursuant to subsection 1 of section 36.260, RSMo, require special notices;

(B) Content of Announcements. Each official notice of an examination shall state the title, duties, pay, and qualifications of positions for which the examination is to be held; the time, place, and manner of making application for admission to the examination; and any other information which the director considers pertinent and useful; and

(C) Distribution of Announcements. The official announcement of an examination shall consist of the posting of an official notice on a public bulletin board maintained either in or near the office of the Division of Personnel. Announcements also shall be distributed to and shall be posted by appointing authorities in institutions, agencies, and divisions of the service where positions in the class(es) involved occur. Announcements of open competitive examinations for other positions also will be sent to appointing authorities for the information of employees, the general public, or both. The official announcement of an examination will be given distribution necessary to inform qualified persons that the examination is being given. The director may use any means that the director considers necessary to inform qualified persons about the examination. These

include, but are not limited to, paid advertisement in newspapers, periodicals, electronic media, and announcements to educational institutions. The director may also publish a periodic bulletin containing information about examinations to be sent to subscribers at a price approximating the cost of publication. The director and the staff of the division will consult with representatives of appointing authorities to design announcement distribution and other informational techniques best suited to cooperate with and coordinate the recruitment and public awareness efforts of appointing authorities.

(3) Eligibility to Compete in Examinations. The standards of education and experience established in the classification plan for each class shall constitute the entrance requirements for admission to the examination for the positions classified. Appropriate standards for admission will be established for positions within broadbanded management classes. Admission to examinations shall be open to all persons who possess the qualifications and who may be lawfully appointed to a position in the class for which a register is to be established.

(A) Open Competitive Examinations. Open competitive examinations shall be open to all persons who possess the qualifications and who may be lawfully appointed to a position for which the register is to be established.

(B) Promotional Examinations. Promotional examinations shall be open to all regular employees who meet the requirements described in subsection (3)(A), except that an appointing authority may request that a promotional examination be limited to employees already employed within the department or division of service involved and the director may approve the request if s/he finds that the needs of the state service will be served.

(4) Application and admission to examinations shall be subject to the following conditions:

(A) Application shall be made on paper or electronic forms prescribed by the director. Those forms shall require information covering experience, training, and other pertinent information as may be requested on the examination announcements. To be accepted for review, applications must be submitted to the division no later than the closing date specified in the announcements. Applications shall be signed in writing or electronically submitted by the applicants and the truth of all statements contained in the application is certified by the written signature or electronic submission; and

(B) Persons who submit applications on or before the last date for filing and whose applications clearly show that the applicants meet the requirements for admission to the examination as specified in the official announcement shall be admitted to compete in the examination for which they applied. Each applicant whose application has been accepted for any examination shall be notified of the date, time, and place of examination, and that notice shall be authorization to take the examination.

(5) Disqualification of Applicants. The director may reject the application of any person for admission to examination, strike the name of any person from a register, refuse to certify the name of any person, or withdraw the certification of a person if the director finds that the person lacks any of the qualifications; or has been convicted of a crime which brings into question the qualifications of that person; or has been dismissed from the public service for delinquency; or has made a false statement of a material fact; or has practiced or attempted to practice any fraud or deception in application or examination or in attempting to secure appointment. Whenever the director disqualifies an applicant, the director

shall furnish the applicant a notice of disqualification. In the case of disqualification, an appeal may be taken to the Administrative Hearing Commission.

(6) *Postponement or Cancellation.* In the event a sufficient number of qualified candidates has not made application for an examination, either open competitive or promotional, the director may postpone the last filing date and the date of the examination or cancel the examination and, in these cases, shall make suitable notice.

(7) *The character of examinations is governed by the following provisions:*

(A) *Competitive Examinations.* All competitive examinations for positions in the classified service shall be of such character as to determine the relative qualifications, fitness, and ability of persons tested to perform the duties of the class of positions for which a register is to be established. The various parts of the examinations may be written, oral, physical, or an evaluation of experience and training, a demonstration of skill or any combination of those types. The examinations may take into consideration factors including training, experience, aptitude, capacity, knowledge, health, physical fitness, and other qualifications as, in the judgment of the director, enter into the determination of the relative fitness of the applicants. No question shall be framed as to elicit information concerning the political or religious opinions or affiliations of the applicant. The examination and selection procedures for promotion shall take into consideration demonstrated capacity, and quality and length of service to the extent determined appropriate by the director;

(B) *Noncompetitive Examinations.* Noncompetitive examinations provided for by the law and these rules shall be administered under the conditions and following procedures as are prescribed by the director:

1. When an intern or trainee or participant in special state or federal training, rehabilitation, or employment programs has successfully completed a period of training or internship of sufficient length to demonstrate job competence in the position involved, an appointing authority may request authorization to appoint that individual to a permanent position in the appropriate class subject to passing a noncompetitive qualifying examination. The director shall require proof of successful completion of an appropriate training or internship program as deemed necessary and is authorized to approve or disapprove programs for purposes of this rule based on duration and training content. Upon approval of the request of an appointing authority, the director shall provide for noncompetitive examination providing the individual possesses the qualifications required for admission to the examination for the class of positions involved. Noncompetitive original appointment following successful completion of the examination will then be allowed;

2. After consultation with appointing authorities, the Personnel Advisory Board may waive competitive examinations for classes or positions for which it determines that competitive examinations are not practicable or that the supply of qualified applicants is generally insufficient to justify competitive examinations and provide meaningful competition in the selection of employees. A request that competitive examination be waived for a particular class or position may be made to the board by the director or an appointing authority. The board will evaluate requests, taking into consideration such criteria as actual or projected number or qualifications of available eligibles in a specific geographic location, qualifications and special requirements of a specific position, or other factors as may be determined by the board. The board shall review determinations pursuant to this provision at least annually. Upon waiving such examinations, the

director will, within the parameters established by the board and consistent with information supplied by the appointing authority, determine what kind of appointment procedure is appropriate, what kind of registers or other mechanisms will be used, what evidence of qualifications will be accepted, and when and how that evidence will be presented to the Division of Personnel;

3. An appointing authority may request the approval of the director to promote regular employees on the basis of a qualifying noncompetitive examination. Such noncompetitive promotions may be approved in, but are not necessarily limited to, situations in which the promotion represents a normal progression to the next higher level within an established occupational job series, or where the director determines that an employee has been an assistant, understudy, or trainee for the position involved or otherwise has had such specific experience or training that a noncompetitive promotion to the position in question is in the best interests of the state service; and

4. Appointing authorities may request board approval to conduct alternative promotional procedures for positions and classes in their divisions of service. The request must be in writing and must outline in detail the procedures demonstrating how employees will be notified of the procedures, how the procedures are in keeping with merit principles, and the provisions by which employees can comment on the procedures. After initial presentation to the board, the proposed procedures will be made available to employees of the affected divisions of service and employees will be given an opportunity to comment. The procedures will not go into effect until the board has determined that employees have had a reasonable opportunity to respond. The Division of Personnel will, on request, work with each agency to develop standards and provide assessment services or other needed assistance. Upon approval by the board the appointing authority shall be responsible to conduct promotional procedures in accordance with the board's approval and without favoritism, prejudice, or discrimination. The board may withdraw approval if it finds this responsibility has not been met;

(C) *Special Examination Procedure.* For positions involving unskilled or semiskilled labor or domestic, attendant, custodial, or comparable work, when the character or place of the work makes it impracticable to supply the needs of the service by appointments made in accordance with the procedures prescribed in other provisions of these rules, the director, after consultation with the board and appointing authorities, shall authorize the use of other procedures as s/he determines to be appropriate in order to meet the needs of the service, while assuring the selection of those employees on the basis of merit and fitness. Procedures may include the testing of applicants and maintenance of registers of eligibles by localities; the testing of applicants singly or in groups, at periodic intervals, at the place of employment or elsewhere, after such notice as the director considers adequate; the registration of applicants who pass a noncompetitive examination or submit satisfactory evidence of their qualifications, and appointment of registered applicants; or any variation or combination of these procedures or other suitable methods. Tests given, certification and registration of eligibles, and appointments made in accordance with these provisions shall conform with, and utilize, such methods, forms, and techniques as the director may require. When the director finds noncompetitive registration and selection procedures to be appropriate, s/he is authorized to delegate to each appointing authority the responsibility for noncompetitive registration and for selection and appointment of registered applicants. When delegation is made, the director shall establish the necessary procedures, guidelines, and standards for appointing authorities and shall require

reports and perform audits as deemed necessary to insure compliance with these guidelines and standards (see section 32.210, RSMo); and

(D) *Open Continuous Test.* In circumstances where there is a continuous need for substantial numbers of eligibles for a certain class of positions, the director, after first establishing this register, may replenish the register from time-to-time by inserting the names of additional eligibles who are found to be qualified on the basis of determinations similar to those used as the basis for establishing the original register. The closing date for any such test may be indefinite and applicants may be continuously tested in a manner and at times and places as the director may provide. An applicant may not reapply and compete in the same test again for a period of three (3) months following the date of the examination. The closing date for any open continuous test may be set at any time by the director, but notice of this action shall be posted in accordance with subsection (2)(C), at least five (5) days prior to the effective date of the action (see section 36.320, RSMo).

(8) *Administration of Examinations.* Examinations shall be held at the times and places as, in the judgment of the director, most nearly meet the convenience of applicants, practicality of administration and the needs of the service. The examinations shall be conducted under conditions prescribed by the director and by persons designated by the director. When an appointing authority finds that recruitment for positions otherwise difficult to fill with competent employees may be enhanced by local administration of merit examinations, an agency subject to these rules may submit a written request to the personnel director for authority to administer examinations. If the director finds that circumstances justify delegation of authority and that the agency involved has the resources to provide professional examination administration services and appropriate test security, the director may approve that request. In the event of approval, the director shall establish the necessary standards, guidelines, and instructions for test administration and security and shall audit examination programs at least annually. The director may withdraw approval for test administration by an agency for a class(es) and shall notify the appointing authority accordingly.

(9) *Rating of examinations shall be subject to the following provisions:*

(A) *Method of Rating.* Sound measurement techniques and procedures shall be used in rating the results of tests and determining the relative ranking of candidates. The director will, in consultation with appointing authorities, keep these techniques and procedures current with evolving standards. In all examinations the minimum rating by which eligibility may be achieved shall be established by the director. The minimum rating also shall apply to the ratings of any part of the test. Candidates shall be required to attain at least a minimum rating on each part of the test in order to receive a passing grade or for participation in subsequent parts of the examination. The final earned rating of the competitor shall be determined by combining the earned rating on each part of the examination in accordance with the weights established by the director for each part. The director may announce in advance of the establishment of an eligible register, the maximum number of competitors who shall have their names placed on the register. Under this procedure, those considered as having passed or as being permitted to take the remainder of the examination shall be the set number of candidates scoring highest in the examination or part of the examinations;

(B) *Rating Training and Experience.* Where a rating of train-

ing and experience forms a part of the examination, the director shall develop those procedures for the evaluation of these factors as will serve to assist in the selection of qualified candidates. These procedures shall give due regard to the quality, recency and amount of experience and to the pertinency and amount of training. Any person who has been honorably discharged from the armed forces of the United States shall receive appropriate credit for any training or experience gained in military service in any examination given for the purpose of establishing a register of eligibles or a promotional register when training or experience is related to the duties of the class of positions for which the examination is given; and/

[(C)](1) *Verification of Qualifications.* [The] **In any competitive examination, the** director, appointing authorities, or both, may verify statements contained in the application of an applicant either before or after employment. [If, after a register is established, information which materially affects the rating of experience and training or qualifications of the applicant is discovered, the director shall make a new rating of the applicant's examination and make the necessary adjustment in registers. The director promptly shall notify the applicant of any change made in the applicant's rating and the reasons.] If a verification of the qualifications of an applicant should reveal any material misrepresentation of employment qualifications and related information as described in the application for examination or attachments, this shall be cause for removal from the register(s) involved, from **current and future** employment, or both, as provided elsewhere in these rules.

[(10)](2) *Veterans' Preference.* In any competitive examination [given] for the purpose of establishing a register of eligibles, veterans, disabled veterans, surviving spouses, and spouses of disabled veterans shall be given preference in appointment and examination as provided by law.

[(A) *Amount of Preference.* A veteran or a veteran's surviving spouse whose name appears on a register of eligibles and who shall have made a passing grade shall have five (5) points added to his/her final grade, and the rank of that person on the register shall be determined on the basis of this augmented grade. The spouse of a disabled veteran whose name appears on a register of eligibles and who shall have made a passing grade shall have five (5) points added to his/her final grade, and his/her rank on the register shall be determined on the basis of this augmented grade. This preference shall be given only in the event that the veteran is not already employed in the state service and that the disability renders him/her unqualified for entrance into the state service. A disabled veteran whose name appears on a register of eligibles and who shall have made a passing grade shall have ten (10) points added to his/her final grade, and the rank of that person on the register shall be determined on the basis of this augmented grade.]

[(B)](A) *Proof of Eligibility.* Proof of eligibility for veterans' preference shall be provided by applicants in the form of their discharge papers, a [certified copy, photostatic] copy of their **discharge papers**, or other satisfactory evidence of honorable service. Applicants also shall submit on a form as may be required by the director, proof of disability certified by the appropriate federal agency responsible for the administration of veterans' affairs. Any papers submitted to establish proof of service of disability, upon request, shall be returned to veterans.

[(11)](3) *Parental Preference.* In any competitive examination [given] for the purpose of establishing a register of eligibles, a parental preference shall be given to persons who were previously employed by the state but terminated such employment to care for young children. This preference shall be given only for persons who were full-time homemakers and caretakers of children under the age

of ten (10) and were not otherwise gainfully employed for a period of at least two (2) years.

[(A) Amount of Preference. If the name of a person eligible for a parental preference appears on a register of eligibles who made a passing grade, such person shall have five (5) points added to the final grade, and the rank of such person on the register shall be determined on the basis of this augmented grade.]

[(B)](A) Proof of Eligibility. Proof of eligibility for parental preference shall be provided by applicants on a preference claim form and, upon request, other evidence such as birth certificates, income tax returns, or other documents may be required by the director.

[(12) Notification of Examination Results. Each person who takes an examination shall be given written notice as to whether s/he passed or failed the examination and the notice shall include the final passing grade with which his/her name has been placed on the register. Each person competing in an examination shall be entitled to inspect his/her rating and examination papers within thirty (30) days after the mailing of notification of examination results, but examination papers shall not be open to the general public. This inspection shall be permitted only during regular business hours and at the office of the Division of Personnel.]

[(13)](4) Error in [Rating] Examination. A manifest error in [rating] an examination which affects the [relative ranking] appointment of persons [in the examination] shall be corrected if called to the attention of the director within thirty (30) days after the establishment of the register, but this correction shall not invalidate any appointments previously made from this register unless it is established that the error was made in bad faith and with intent to deprive the person of [certification] consideration.

[(14) Appeals From Rating. Any competitor may appeal to the director for reconsideration of his/her rating in any examination as provided in 1 CSR 20-4.010(1)(B).]

AUTHORITY: sections 36.060 and 36.070, RSMo Supp. [2010 and section 36.070, RSMo 2000] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 3—Personnel Selection, Appointment,
Evaluation and Separation**

EMERGENCY AMENDMENT

1 CSR 20-3.020 Registers. The board is amending sections (1) and (9) and deleting existing sections (2)–(8).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the

executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

(1) Establishment of Registers. The director [shall] may establish and maintain the registers necessary to provide an adequate supply of qualified candidates [for positions in the classified service. Registers shall be by class of employment and shall be statewide in application except where these rules or action of the director specifically makes provision for establishment of lists by geographical area or organizational unit].

[(2) Reinstatement Register. The director shall establish and maintain reinstatement registers which shall contain the names of persons who have been regular employees in a particular class and who have been laid off in good standing or demoted in lieu of layoff, due to lack of work or funds, or the abolition of a position or material changes in duties or organization. Names shall be placed on the reinstatement registers in the order of service credits as determined by these rules and shall remain on the register for a period of three (3) years, except that the director may extend the time during which a name may remain on the register, not to exceed five (5) years, when the needs of the service so require. In the case of ties in service credits, names shall be placed on the appropriate reinstatement register in the layoff order outlined in 1 CSR 20-3.070(1)(B)3. The director may remove the name of a person from a reinstatement register or refuse to certify his/her name for a position if s/he finds, after giving him/her notice and opportunity to be heard, that the person is not qualified to perform the necessary duties satisfactorily. A regular employee who resigns in good standing is not eligible to be placed on a reinstatement register but is eligible for reemployment without competitive certification from a register as provided in 1 CSR 20-3.030(6).

(3) Promotional Registers. The director shall establish and maintain promotional registers for the various classes of positions as s/he deems necessary or desirable to meet the needs of the service. On each promotional register, the eligibles shall be ranked in order of their ratings earned in a test given for the purpose of establishing this register.

(4) Registers of Eligibles. The director shall establish and maintain such registers of eligibles for the various classes of positions subject hereto as s/he deems necessary or desirable to meet the needs of the service. Names of eligibles shall be placed on a register of eligibles in the order of their final earned rating plus veterans' preference credit and parental preference.

(5) Ties in Final Ratings. In the case of ties in final ratings, the names shall be placed on a promotional register or register of eligibles in the following order: disabled veterans, other persons eligible for veterans' preference and nonveterans.

(6) Duration of Promotional Registers and Registers of

Eligibles. The time during which a promotional register or register of eligibles shall remain in force shall be one (1) year from the date on which it was officially established by the director, except that, before the expiration of a register, the director, by order, may extend the time during which the register remains in force when the needs of the service so require. In no event shall the total period during which a register is in force exceed three (3) years from the date on which the register was originally established. An order extending the period during which a register is in force shall contain a statement of the reasons for the extension and the order shall be entered in the records of the Personnel Division. The director may consolidate or cancel registers as the needs of the service require and as authorized by these rules (see section 36.320, RSMo). A register established and replenished through a continuous examination program shall remain in force in the manner provided for other registers. However, those names which have been on the register for a period less than three (3) years at the time the register expires, may with the approval of the director, may be consolidated with an active register, providing that the total time during which a name may remain on one (1) or more active registers may not exceed three (3) years.

(7) *Removal of Names From Registers.* The director may remove a name from a register, permanently or temporarily, for any of the following reasons:

(A) Appointment through certification from the register to fill a permanent position;

(B) Appointment to fill a permanent position at the same or higher salary from a different register, provided that any person whose name is removed may have his/her name restored to any register other than the one from which appointment was made by making written application for action to the director;

(C) Failure to respond within seven (7) working days from the date of mailing to a written inquiry of the director or appointing authority relative to availability for appointment;

(D) Declination of appointment without good reason or under conditions which the eligible previously indicated s/he would accept, unless a waiver is granted by the director in accordance with 1 CSR 20-3.030(3)(G);

(E) Failure to report for duty within the time specified by the appointing authority;

(F) Expiration of the term during which the register remains in force;

(G) Failure to maintain a record of his/her current postal or e-mail address with the division;

(H) Willful violation of any of the provisions of the law or these rules;

(I) In the case of promotional registers, upon separation from the state service or the division for which the register is established;

(J) Upon a finding by the director that the applicant is not qualified to perform the necessary duties or is physically unfit to effectively perform the duties of the position in which s/he seeks appointment;

(K) Addiction to the excessive use of drugs or intoxicating liquor;

(L) Upon a finding by the director that the applicant has been convicted of a crime which brings into question the qualifications of the applicant for the class involved;

(M) Dismissal from the public service for delinquency; and

(N) Submission of false statement of any material fact or the practice or attempt to practice any fraud or deception in an application or examination or in attempting to secure appointment. Any person whose name is removed from a register under subsection (7)(C), (D), (H), (J), (K), (L), (M) or (N) shall be notified promptly by the director, indicating the

reasons for removal.

(8) *Restoration of Names to Registers.* An eligible whose name is removed from a register as provided previously may make a written request to the director for restoration of his/her name to the register for the duration of the register. This request shall set forth the reasons for the conduct resulting in removal of the name from the list and shall further specify the reasons advanced for restoration of the name to the register. The director, after full consideration of the request, may restore the name to the register or may refuse the request. The eligible shall be notified of the director's action and may make a written appeal to the Administrative Hearing Commission to review the director's action. A former employee reinstated or reemployed in the state service shall have his/her name restored to any existing promotional register from which it was removed because of separation from the state service, provided the director approves the employee's written application for this action. A probationary or permanent employee whose name has been removed from a divisional promotional register by transfer or original appointment with probationary or permanent status under a new appointing authority may have his/her name placed on the divisional promotional register for the same class in the new division, provided written application, made by the employee during the duration of the register from which the name was removed, is approved by the new appointing authority and the director.]

[(9)](2) *Availability of Eligibles.* It shall be the responsibility of eligibles to notify the Personnel Division [in writing], and any applicable appointing authority, of any change in address or other changes affecting availability for employment. However, the director, or any appointing authority, may [circularize] circulate lists or use other methods to determine at any time the availability of eligibles. Whenever an eligible submits a [written] statement restricting the conditions under which s/he will be available for employment, his/her name may be withheld from all certification, or from consideration for any employment opportunity, which does not meet the conditions which s/he has specified. An eligible may file a new [written] statement at any time within the duration of an eligible list modifying any prior statement as to conditions under which s/he will be available for employment.

AUTHORITY: sections 36.060 and 36.070, RSMo Supp. [2010 and section 36.070, RSMo 2000] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 3—Personnel Selection, Appointment,
Evaluation and Separation**

EMERGENCY AMENDMENT

1 CSR 20-3.030 Certification and Appointment. The board is deleting sections (1), (2), and (6) and amending existing sections (3)–(5).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

[(1) Request for Certification. All vacancies in part-time or full-time positions in the classified service shall be filled as provided in the law and these rules. Whenever an appointing authority proposes to fill one (1) or more vacancies in a class of positions subject to the law, the appointing authority shall submit to the director, as far in advance of the desired appointment date as possible, a requisition for the certification of eligible persons from an appropriate register. The requisition shall contain a statement showing the title and number of the positions to be filled and other information as may be required by the director. The appointing authority shall anticipate these actions sufficiently in advance of the desired appointment date to provide for allocation, certification, appointment, and necessary payroll changes (see section 36.240, RSMo).

(2) Method of Filling Vacancies. Upon receipt of a request from an appointing authority for certification of eligibles, the director shall certify the proper number of names from the appropriate register or combination of registers. When sufficient names cannot be certified, the director may authorize a provisional appointment in accordance with the provisions of these rules. The order of precedence of registers from which eligibles are certified shall be as follows: 1) an appropriate reinstatement register; 2) an appropriate promotional register; and 3) an appropriate register of eligibles.

(A) When vacancies to be filled in a class occur in a division of service from which employees in the class have been laid off, or demoted in lieu of layoff, certification from the reinstatement register first shall be limited to previous employees of the division of service until all the available employees have been reinstated in order of rank on reinstatement register.

(B) When a register of eligibles or a promotional register contains the names of persons who are employed in the division in which the vacancy occurs, the appointing authority may request that the director certify those names in their order ahead of the names on the register. All the names on any of those registers shall be certified before any name on the register next in order of precedence, but the last names on a register may be combined with the first names on the register next in precedence in filling a requisition.

(C) If an appointing authority wishes to fill an advanced technical, scientific, or professional position for which, in his/her judgment, appointment from a promotional register is not in the best interests of the service, s/he may request in writing that the personnel director give precedence to certification from a register of eligibles rather than from the pro-

motional register. This request should specify in detail the reasons why the position cannot be satisfactorily filled by promotion. If the director, upon review, approves the request, s/he may authorize certification from the register of eligibles for the class involved.]

[(3)](1) Certification of eligibles shall be designed to provide the appointing authorities with a viable tool for efficient selection of an effective work force and shall be governed by the following provisions:

[(A) Order of Names Certified. Names shall be certified in order of standing on the register from which certification is made. In filling a vacancy in a permanent position subject to this law, the appointing authority first shall reinstate in rank order from the reinstatement register all previous employees of the division of service who have been laid off or demoted in lieu of layoff, and after that shall be entitled to choose from among the top fifteen (15) ranking available eligibles or the names of available eligibles comprising the top ranking fifteen percent (15%) of available eligibles, whichever is greater, plus such additional eligibles as have a final rating equal to the last eligible in the selection group. Upon request of the appointing authority, the director may also certify, for each additional vacancy to be filled from the same certification, the next five (5) ranking available eligibles plus such additional eligibles as have a final rating equal to that of the last eligible in this expanded selection group. If an eligible has been certified from a register and considered in connection with three (3) appointments by the same appointing authority and personally interviewed by that division of service at least one (1) time, the appointing authority may request that the eligible not be certified in the future from the register involved. However, exclusion shall not affect eligibility for certification to other divisions of service or from other registers. If special requirements of domicile or the possession of special skills are specified by the appointing authority in a requisition and the director finds that these requirements would contribute substantially to the effective performance of the duties involved, certification may be limited to persons on the appropriate register who meet these requirements;

(B) Order of Certification. Eligibles may be certified concurrently for vacancies occurring in the same class in different divisions of service with due regard for the rights of eligibles standing highest on the list and requirements of appointing authorities. The name of an eligible need not be included on a certification if his/her name has been included on a certification made concurrently for vacancies in the same class in another division of service, if the director finds that this action would serve to hinder the actual availability and supply of candidates certified to any one (1) appointing authority;]

[(C)](A) [Less Than Required Number of Eligibles.] In the absence of an established register or [W] whenever there are not sufficient names on a register [to make a complete certification], the director may [augment] supplement those names [by a sufficient number of] with names from other appropriate registers [to make a complete certification];]

[(D) Certification From Appropriate Registers. In the absence of a register established for the class, the director may certify from registers for higher classes to vacancies occurring in lower classes or from registers for one (1) class to vacancies in another class where s/he determines that the reasonably conducted examination measures the ability of the eligible to perform the duties in the class to which certification is made;

(E) Withdrawal of Certification. In the event appointment is not reported within ninety (90) days of the date of certification, the director may withdraw the certification and shall

certify the names of eligibles included in the certification on the next requisition received for the appropriate class of employment;

(F) *Waiver of Certification.* Eligibles who are not available for appointment when offered certification shall be granted a waiver of certification for appointment for a stated period of time, at or below a specified salary, for a specific location, or for other specified reasons. Eligibles who do not respond within seven (7) working days after the notice of certification at the discretion of the director may be dropped from the eligible register (see section 36.240, RSMo);

(G) *Alternative Certification Procedures.* If the director finds that selection from the normal number of eligibles certified in accordance with subsection (3)(A) does not provide a reasonable range of competitive selection for a given class of position because of deficiencies in the examination process, the diverse types of positions included in the class and the large numbers of eligibles or a combination of these and related reasons, the director may adopt alternative procedures for certification and selection. These may include certification by broad category of examination rating or within a specified range of scores designed to include eligibles with broadly comparable qualifications. The use of alternative procedures and the reasons in each instance shall be reported to the board and entered into its records and those of the Division of Personnel; and

(H) *Noncompetitive Certification.* The director shall adopt appropriate procedures for noncompetitive certification of the names of eligible applicants for classes for which competitive examination has been waived. The director also shall adopt appropriate procedures for the review and approval of noncompetitive appointments and promotions in other classes not subject to the competitive certification process.]

[(4)](2) The following types of appointment may be made [in the classified service] for those positions under section 36.030.1, RSMo:

(A) *Appointment From a Register.* [Except as otherwise authorized by the law and these rules, a] Appointments to vacancies in the classified service [shall] may be made following certification from an appropriate register in accordance with the provisions of the law and these rules[. An appointment shall be effective on the date stated by the appointing authority on a written report of appointment submitted to the director];

(B) *[Provisional Appointment.* When an appointing authority finds it essential to fill a vacancy in a position subject to these rules, and with at least thirty (30) days' notice of the vacancy the director is unable to certify the names of at least ten (10) available eligibles, the director may authorize the appointing authority to fill the vacancy by means of a provisional appointment. The appointing authority shall submit a statement containing the name of the person nominated by the appointing authority for provisional appointment to the position, this statement shall contain a description of the qualifications of training and experience possessed by that person and the other information as may be required by the director and in a form as the director shall prescribe. If the nominee is found by the director to possess experience and training which meet the qualifications for the position, the director may approve the provisional appointment. No provisional appointment shall be made without the approval of the director. The duration of a provisional appointment shall be the same as the duration of the probationary period established for the position. A provisional appointee who successfully completes the working test of the probationary period may receive a regular appointment without examination;] *Direct Appointment.* After appropriate public notice, an appointing authority may appoint any applicant meeting the minimum qualifications for a particular position within the appoint-

ing authority's division of service. This type of appointment may be made regardless of whether or not the applicant was added to a register or whether or not the applicant applied through any central statewide application process or system; and

[(C) *Emergency Appointments.* When an emergency makes it necessary to fill a position immediately in order to prevent stoppage of public business or loss, hazard, or serious inconvenience to the public, and it is impracticable to fill the position under any other provisions of the law, an appointing authority or a properly authorized subordinate employee may appoint any qualified person to that position without prior approval of the director. Any such person shall be employed only during that emergency and any emergency appointment shall expire automatically ninety (90) calendar days from the date of appointment. The appointing authority shall report each emergency appointment to the director as soon as possible after the date of emergency appointment and the report shall contain the name of the person appointed, the date of appointment, and the reasons which made the appointment necessary. No individual may be given more than one (1) emergency appointment in any twelve (12)-month period in the same division of service (see section 36.270, RSMo); and]

[(D)](C) *Temporary Appointments.* [When a position in divisions of the service subject to the law is limited in duration, certification may be limited to the highest ranking eligible(s) who will accept employment under those conditions.] No temporary appointment shall be made for more than a total of six (6) months, either continuously or intermittently, in any twelve- (12)-[] month period. Successive temporary appointments to the same position shall not exceed a total of six (6) months in any twelve- (12)-[] month period. [A temporary appointment shall be made only after a statement describing the nature of the position and its estimated duration is submitted by the appointing authority and approved by the director. If a temporary position is limited to less than ninety (90) calendar days' duration, the appointing authority may fill the position by temporary appointment in the same manner as provided in these rules for emergency appointments. These appointments will be designated as limited temporary appointments. No individual may be given more than one (1) limited temporary appointment in any twelve (12)-month period in the same division of service, nor shall this appointment be made in succession with an emergency appointment in the same division of service in any twelve (12)-month period (see section 36.240, RSMo).]

[(5)](3) *Transfers.* [An appointing authority at any time may assign an employee from one (1) position to another position in the same class in the same division except that transfers of employees made because of a layoff or shortage of work or funds which might require a layoff shall be governed by 1 CSR 20-3.070 and the layoff procedures adopted. Upon making this assignment, the appointing authority immediately shall give written notice of the action to the director. A transfer of an employee from a position in one (1) division in the classified service to a position in the same class in another division in the classified service may be made with the approval of the director and of the appointing authorities of both divisions.] Transfers may be used in accordance with statute and these rules.

[(A) No employee shall be transferred from a position in one (1) class to a position in another class with a higher rank or for which there are substantially dissimilar requirements for appointment unless appointed to a latter position in accordance with the provisions of the law and these rules.

(B) Any change of an employee from a position in one (1) class to a position in a class of lower rank shall be considered a demotion and shall be made only in accordance with

the procedure provided in 1 CSR 20-3.070(4). An employee demoted shall have the right of appeal to the Administrative Hearing Commission. Transfers from one (1) class to another class of comparable rank shall be subject to review and approval of the director.

(C) An employee who has successfully served at least one (1) year in a position covered by the uniform classification and pay system as described in section 36.031, RSMo, but not by the Merit System service as described in section 36.030.1, RSMo, may be transferred to a position in the Merit System service in the same class with the approval of the director and of the appointing authorities of both divisions, provided the employee possesses the qualifications and has successfully completed a noncompetitive examination for the position involved.

(D) Change of Station. When a certification is made on an area basis, a change of station shall not be made during the probationary period, except with the approval of the director

(E) In the case of a permanent, involuntary transfer from one (1) geographical area to another, the appointing authority shall give written notice of the action to the director and to the employee thirty (30) days prior to the effective date of the action. This notice will indicate the reason for the transfer. If the employee requests a personal explanation, the appropriate supervisor or manager, as determined by the appointing authority, will grant the affected employee a personal interview, will explain the reasons for the transfer, and will provide the employee with an opportunity to ask questions. Geographical areas will be those prescribed by the director in accordance with 1 CSR 20-3.070(1)(E) Area Layoff. The affected employee may make a written request to the director asking for review of the action on the basis that the action, in the employee's opinion, was for arbitrary, capricious, or punitive reasons and not for the good of the service. The director shall conduct an appropriate investigation and shall approve or disapprove the transfer taking into consideration information received from both the employee and the appointing authority. Both the employee and the appointing authority will be notified of the director's action.

(6) Reemployment. Any person who has obtained regular status in a classified position within the Merit System service as defined in section 36.030.1, RSMo, and who has resigned from state service in good standing may be reemployed without competitive certification in the same or comparable class at the discretion of any appointing authority who wishes to reemploy this person. Any person who has successfully served at least one (1) year in a covered position in the uniform classification and pay service as defined by section 36.031, RSMo, and who has resigned from state service in good standing or who has accepted demotion or transfer for personal reasons may be reemployed in a Merit Service agency without competitive certification in the same or comparable class at the discretion of the appointing authority provided the employee possesses the qualifications and has successfully completed an examination for the class involved. For purposes of this rule, a lower class for which a person qualifies in the same general occupation or job family may be approved by the director as a comparable class for purposes of reemployment. A regular employee who has been separated in good standing from a position by class transfer, promotion, long-term disability, retirement, or layoff shall be considered as having resigned in good standing for the purpose of reemployment. Prior to reemployment, the appointing authority shall notify the personnel director of his/her intention to do so and provide information as may be required by the director to establish eligibility for reemployment. The director also shall determine comparability of classes and appropriate qualifications of the former employ-

ee if reemployment is proposed in a class other than the one in which s/he obtained regular status. Reemployment may be made either to a temporary or a permanent position. Reemployment to a permanent position shall be subject to a probationary period as is provided for in 1 CSR 20-3.040(2). No one shall be reemployed under this section until reinstatement first has been offered to all eligibles on the appropriate reinstatement register(s) for the class and division of service involved. The rate of pay of a former employee upon reemployment shall be governed by 1 CSR 20-2.020(4)(A).]

AUTHORITY: sections 36.060 and 36.070, RSMo Supp. [2010 and section 36.070, RSMo 2000] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 3—Personnel Selection, Appointment,
Evaluation and Separation**

EMERGENCY AMENDMENT

1 CSR 20-3.040 Probationary Period. The board is amending sections (1) and (2) and deleting sections (4)–(6).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

PURPOSE: This rule establishes the conditions and procedures which govern the probationary period of employment required for individuals appointed or promoted to positions described under section 36.030.1(2), RSMo.

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

(1) **Objective and Scope.** The probationary or working test period shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his/her position and for rejecting any employee whose performance does not meet the required work standards. **This rule applies only to positions described under section 36.030.1(2), RSMo.**

(2) Duration. *[Every person appointed to a permanent position subject to the law shall be required to successfully complete a working test during a probationary period which shall be of sufficient length to enable the appointing authority to observe the employee's ability to perform the various principal duties pertaining to the position; however, a new probationary period shall not be required for a regular employee who is reinstated within two (2) years after layoff, or demotion in lieu of layoff, by the same division of service.]* The probationary period shall begin upon *[reemployment, noncompetitive appointment, noncompetitive promotion or appointment from a register of eligibles, a promotional register or reinstatement register. However, uninterrupted service in a position by a provisional or emergency employee which immediately precedes an appointment from the register to the same position shall be credited toward the probationary period except that the employee must serve in probationary status at least sixty (60) days following his/her appointment]* **the appointment or promotion of the employee.** Any interruption of service during the probationary period shall not be counted as a part of the total probationary service required. Probationary service will be subject to the following provisions:

(A) The normal length of probation for employees in all medical and dental classes of positions and in classes identified by the director as having substantial supervisory or administrative responsibilities shall be twelve (12) months. The maximum length of probation shall be eighteen (18) months and the minimum length of probation shall be six (6) months for employees in those positions serving original or promotional probationary periods;

(B) The normal and the minimum length of probation for all other classes of positions shall be six (6) months for employees in those positions serving an original or promotional probationary period. The maximum length of probation for those employees shall be twelve (12) months;

[(C) The minimum length of probation shall be three (3) months for employees of any class who are serving a probationary period following reemployment under these rules or following reinstatement which occurs later than two (2) years after the effective date of layoff or demotion in lieu of layoff. The normal and the maximum length of probation in these cases shall be the same as is provided in this rule for promotional and original probationary periods for the class category involved. However, a probationary period is not required for employees of any class who are reinstated within two (2) years of layoff or demotion in lieu of layoff;]

[(D)](C) If an appointing authority finds that it will require more time than the normal probationary period to evaluate an employee's ability to successfully perform the various duties of a position, the appointing authority may extend the probationary period not to exceed the maximum period allowed under these rules. Prior to the expiration of a normal probationary period, the appointing authority shall notify the employee in writing of the reasons for, and duration of, the extension. A copy of the notice shall be filed with the director;

[(E)](D) If an appointing authority finds that a probationary employee is performing the duties of a position in an effective and fully satisfactory manner, the appointing authority may reduce the length of probation to no less than the minimum probationary period prescribed under these rules for the class and type of appointment involved. The appointing authority shall notify the employee and the director in writing of the reduction and the reasons; **and**

[(F)](E) The normal probationary period for the class involved shall be served by all employees unless the appointing authority takes specific action under these rules to extend or reduce the length of probation; *and* **for a specific probationary employee or for employees in a particular job class.**

[(G) Probationary periods which have been entered into by an employee prior to July 19, 1947 shall be completed in accordance with the rules in effect at the beginning of the probation (see section 36.250, RSMo).]

[(4) Dismissal During Probationary Period. At any time during the probationary period the appointing authority may remove an employee if, in the opinion of the appointing authority, the working test indicates that the employee is unable or unwilling to perform the duties of the position satisfactorily or that his/her habits and dependability do not merit his/her continuance in the service. Upon removal, the appointing authority shall report to the director and to the employee removed the action and the reasons. No more than three (3) employees shall be removed successively from the same position during their probationary period without the approval of the director. An employee who is found by the director to have been appointed through fraud or error shall be removed within ten (10) days of notification to this effect by the director to the appointing authority. An employee serving a probationary period following a promotion shall be considered a regular employee with respect to the class of position held prior to promotion as defined in section 36.020(14), RSMo and shall have all the rights and privileges accorded regular employees under section 36.390.5, RSMo.

(5) Probationary Period Reports. At least ten (10) days prior to the expiration of an employee's probationary period, the appointing authority shall notify the director in writing whether the services of the employee have been satisfactory and whether s/he will continue the employee in his/her position. A copy of the notice shall be given to the employee. No employee shall be paid for work performed after the expiration of the probationary period unless, prior to the performance of the work, the appointing authority has notified the director that the employee will be continued in his/her position. Upon successful completion of an original probationary period, an employee shall receive a regular appointment and the director shall be so notified in accordance with 1 CSR 20-1.050(2).

(6) Restoration to Appropriate Register. If an employee is removed from his/her position during or at the end of his/her probationary period and the director determines that s/he is suitable for appointment to another position, his/her name may be restored to the register from which it was certified. An employee appointed from a promotional register who does not complete the probationary period successfully shall be reinstated in a position in the class occupied by the employee immediately prior to his/her promotion or in a comparable class.]

AUTHORITY: section 36.070, RSMo Supp. [1998] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 3—Personnel Selection, Appointment,
Evaluation and Separation**

EMERGENCY RESCISSION

1 CSR 20-3.050 Service Reports. This rule provided for the establishment and administration of a system of service reports.

PURPOSE: This rule is being rescinded because it is inconsistent with Chapter 36, RSMo, effective August 28, 2018.

EMERGENCY STATEMENT: This emergency rescission implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency rescission of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. The existing rule is inconsistent with Chapter 36, RSMo, effective August 28, 2018, and must be rescinded to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed rescission which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Personnel Advisory Board believes this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

AUTHORITY: section 36.070, RSMo 1986. Original rule filed July 9, 1947, effective July 19, 1947. Amended: Filed Dec. 8, 1975, effective Dec. 19, 1975. Emergency rescission filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed rescission covering this same material will be filed at a later date to be published in the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 3—Personnel Selection, Appointment,
Evaluation and Separation**

EMERGENCY AMENDMENT

1 CSR 20-3.070 Separation, Suspension, and Demotion. The board is amending sections (1)–(8).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and to ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

(1) Layoffs in the classified service shall be [governed by the following provisions:] administered by each respective appointing authority based on the needs of the service.

(A) Method of Layoff. An appointing authority, in accordance with these rules and layoff procedures approved by

the director, may lay off an employee in a position subject to the law whenever the appointing authority deems it necessary by reason of shortage of work or funds, the abolition of the position, or other material change in the duties or organization, or for other related reasons which are outside the employee's control and which do not reflect discredit on the service of the employee. The duties performed by an employee laid off may be reassigned to other employees already working who hold positions in appropriate classes. No regular employee shall be laid off while a person is employed on a provisional, temporary, or probationary basis in the same class in that division. However, if no regular employee subject to layoff elects to accept a transfer to a position occupied by a provisional, temporary, or probationary employee, an employee with this employment status may be retained. No temporary or permanent separation of an employee from the service as a penalty or disciplinary action shall be considered as a layoff (see section 36.360, RSMo);

(B) Order of Layoff. The order of layoff of employees in a classification affected will be as follows:

1. Emergency, provisional, and temporary employees will be laid off first and selection of employees for layoff shall be at the discretion of the appointing authority and as dictated by the needs of the service;

2. Original probationary employees will be laid off next in inverse order of the date of current original appointment in the geographic location in which appointment from a merit system register occurred. However, prior to the application of the layoff procedures, promotional probationary employees in affected classes shall be reinstated to the class from which they were promoted and shall be considered for layoff in that class; and

3. Layoff of regular employees shall be made in inverse order of service credit and by class in the division or area of service involved. Reemployment and reinstatement probationary employees shall be considered as regular employees for purposes of implementing a layoff. If it is found that two (2) or more persons in the class and the division or area in which layoff is to be made have equal service credit, the order of layoff in all cases shall be in inverse order of creditable service computed to the day as calculated using MOSERS creditable service. Remaining ties shall be broken on the basis of the last regular performance appraisal. If the performance appraisals do not establish definite differentials for all regular employees in the class involved, the further order of layoff shall be determined by the appointing authority with the approval of the director, in a manner as to conserve for the state the services of the most valuable employee and giving consideration to time in the division of service from which the layoff is being made;

(C) Notice of Layoff. An appointing authority shall give written notice to the director of every proposed layoff and reasons for them at least thirty (30) days before the effective date unless the director waives this requirement because of a fiscal emergency. The notice shall identify the proposed area of layoff, the affected classes, and the impact of the proposed action on the classification plan of the agency involved. The director shall take action relating to the layoffs and prescribe procedures as the director considers necessary to secure compliance with these rules. Each employee affected shall be notified as far in advance of the layoff as is practicable but, in all cases, at least fifteen (15) days prior to the effective date of the layoff;

(D) Return of Names to Registers. The names of regular employees laid off shall be placed in order of service credit on the appropriate reinstatement register for the class in which the layoff took place. The name of any probationary employee who is laid off shall be restored to the register from which certification was made;

(E) *Area Layoff.* Layoff shall be statewide unless the appointing authority requests and the director approves layoff on a geographical area basis. Areas for the purpose of layoff shall be prescribed by the director after taking into consideration the geographic concentration and dispersion of employees in and the administrative organization of the division of service involved;

(F) *Special Layoff Status for Employees in Limited Functions or Programs.* When it is necessary to establish a function or program that is known to have a termination date, special layoff status may be established by the Personnel Advisory Board for individuals employed for such programs. Special layoff status will be identified to ensure that employees in the project are aware that the function or program will end and to protect employees and functions not in the designated function or program from undue disruptions and layoff impact when the function or program terminates. In the event of a layoff unrelated to the special project, these employees will be treated the same as other employees under the rules. Special layoff status under this rule will be governed by the following provisions:

1. To establish special layoff status the appointing authority will present to the Personnel Advisory Board information indicating the separate nature of the function or program, the period of time the function or program is projected to exist, the positions to be included in the function or program and the probable termination date. Upon approval, the board will establish procedures to ensure that the subject positions are identified within the records of the Division of Personnel and that employees in the identified functions or programs are notified of their special layoff status;

2. The board may approve the special layoff status for an initial period not to exceed three (3) years. If extensions are necessary, agencies may request extensions annually. Agencies may ask the board to approve amendments at any time;

3. Employees will be employed in functions or programs identified as justifying special layoff status under the same rules and procedures as are employees in areas not so identified and will have the same rights and benefits as other employees in the classified service, except for the identified special layoff status;

4. At such time as the function or program which has been approved for special layoff status terminates, layoff will be limited to employees in the identified function or program, but all other layoff rules and procedures will be followed for positions identified for the project. Employees laid off will be placed on the appropriate reinstatement registers in accordance with 1 CSR 20-3.020(2);

5. Special layoff status will not apply to employees who are employed in a special layoff function or program and subsequently employed in or transferred to a position not so designated; and

6. Regular employees will not be transferred to a special project involuntarily except that the plan provided to the board may include regular employees with specialized knowledge or experience who will retain normal layoff status;

(G) *Layoff Involving Special Circumstances.* If situations exist whereby layoff under certain conditions of these rules would cause unnecessary disruption to the state service, would cause employees with specialized ability to perform essential remaining work to be laid off, or would result in unfair situations, the appointing authority may develop a plan for presentation to, and approval/disapproval by, the Personnel Advisory Board. This plan will describe in detail undesirable consequences resulting from a layoff in compliance with these rules and will propose an alternative method. This plan may describe specific knowledges, skills, and abilities required to perform the remaining work or may

describe situations whereby an alternative method of layoff would more accurately meet the needs of the service and prevent unfair situations. The proposed procedures will be made available to employees of the affected divisions of service and their representatives prior to the proposed procedures being presented to the board. Employees and their representatives will be given an opportunity to be heard by the board. The board may then waive existing procedures and authorize use of the alternative procedures. Employees and their representatives will be notified of the alternative procedures; and

(H) *Transfer or Demotion in Lieu of Layoff.* Following or in connection with a layoff, an appointing authority may find it necessary to reassign employees in the affected class(es) in order to maintain essential business. Where reassignment involves the elimination of a position at one (1) location and a transfer to another physical location of work, the employees will be selected for transfer from a given location in the same order as provided for layoff. If an employee in a position which is abolished refuses to accept this transfer, the employee may be laid off in lieu of transfer. If it is impossible to staff a necessary position by transfer, the retention of an employee otherwise subject to layoff is authorized. Regular employees whose positions are to be eliminated will first be given the opportunity, in order of service credit score, to transfer within the layoff area where employed if other vacancies exist or if other employees in the area have lower layoff scores. Regular employees who are subject to layoff also must be given the opportunity to transfer to positions in the same class in other areas occupied by probationary, provisional, or temporary employees. Demotion in lieu of layoff will be governed by section (4).]

(2) Causes for Suspension, Demotion, and Dismissal. The following are declared to be causes for suspension, demotion, or dismissal of any **regular** employee in the classified service, depending upon the seriousness of the cause; however, those actions may be based upon causes other than those enumerated [in this rule, namely, that the employee] below:

(A) **The employee [H]/has** willfully violated any of the provisions of the State Merit System Law or of the rules of the Personnel Advisory Board;

(B) **The employee [I]/is** incompetent, inadequate, careless, or inefficient in the performance of the duties of his/her position (specific instances to be charged) or has failed to meet established minimum standards in the performance of those duties;

(C) **The employee [H]/has** been wantonly careless or negligent in the care of the property of the state;

(D) [Has been guilty of] **The employee has engaged in** abusive or improper treatment toward an inmate or patient of any state institution or to a person in custody; provided the acts committed were not necessarily or lawfully committed in self-defense, to protect the lives of others, or to prevent the escape of anyone lawfully in custody;

(E) [Has some permanent or chronic physical or mental ailment or defect which incapacitates him/her for the proper performance of the duties of his/her position, including unrehabilitated alcoholism or narcotics addiction;] **The employee is unable, with or without a reasonable accommodation, to perform the essential functions of his or her job;**

(F) **The employee [H]/has** been habitually tardy in reporting for duty or has absented him/herself frequently from duty during the course of regular working hours; or has been completely absent from duty without prior or subsequent authorization for that absence;

(G) **The employee [H]/has** been convicted of, or **pled guilty to**, a felony or of a misdemeanor involving moral turpitude;

(H) [Has been guilty of a] **The employee has engaged in** scandalous and disgraceful conduct while on or off duty where this conduct tends to bring the state service into public disrepute or has

exhibited behavior which adversely affects the employee's job performance, the employing agency, or both;

(I) *[Has been guilty of]* **The employee has engaged in** abusive or improper treatment of guests or clients while on duty at any state facility or on any state land normally open to the public;

(J) **The employee** *[H/has]* submitted a false statement of a material fact or has practiced or attempted to practice any fraud or deception in an application or examination or in otherwise attempting to secure employment subject to the provisions of these rules;

(K) **The employee** *[H/has]* *[been guilty of]* **engaged in** insubordination or has failed to respond in a reasonable manner to his/her lawful orders or instructions of persons with duly delegated authority over the employee;

(L) **The employee** *[H/has]* willfully violated the lawful regulations or policies of the agency by which employed after having been made aware of the regulations and policies;

(M) **The employee** *[H/has]* been abusive or physically violent toward other employees while on duty or in the duty area or has willfully exhibited behavior which is disruptive of the working activities of other employees;

(N) **The employee** *[H/has]* been intoxicated or under the influence of a controlled substance while on duty, except as may have been required by a licensed medical physician; or

(O) **The employee** *[H/has]* practiced or attempted to practice fraud or deception in securing or attempting to secure benefits or grants from a state agency either for him/herself or for another applicant.

(3) Suspension. An appointing authority, for disciplinary purposes, may suspend, without pay, any employee in his/her division. A suspension may be made for a length of time as s/he considers appropriate, not exceeding twenty (20) working days in any twelve- (12-)/-/ month period except that this limitation shall not apply in the event of a terminal suspension given in conjunction with a dismissal; a suspension given in connection with a criminal offense involving the use of a controlled substance; or, with the approval of the director, a suspension made pending the investigation or trial of any charges against the employee (see section 36.370, RSMo). Employees enumerated in 1 CSR 20-5.010(1)(C) and (D) and designated as exempt from the overtime requirements of the Fair Labor Standards Act shall not be suspended from duty without pay for disciplinary purposes unless the said suspension is for one (1) or more full workdays.

(A) Any employee **covered under section 36.030.1(2), RSMo** being suspended shall be furnished with a statement in writing specifically setting forth the reasons for the suspension. A copy of the statement shall be furnished to the director. No suspension of a regular employee for a period longer than five (5) workdays shall take effect unless, prior to the effective date, the appointing authority gives to the employee a written statement setting forth in substance the reason, informs the employee of appeal rights, provides the employee with a copy of the form for appeal to the administrative hearing commission, and provides the employee with an opportunity to respond to the reason prior to the effective date. Any regular employee who is suspended for more than five (5) workdays may appeal in writing to the administrative hearing commission within thirty (30) days after the effective date thereof setting forth in substance reasons for claiming the suspension was for political, religious, or racial reasons or not for the good of the service. For the purpose of the appeal process, the effective date of a suspension will be the first day the employee is suspended without pay. **There is no appeal from a suspension of five (5) working days or less. Employees not covered under section 36.030.1(2), RSMo do not have the right to notice or an opportunity to be heard on such suspension.**

(B) Any employee **covered under section 36.030.1(2), RSMo** being suspended for a period of five (5) workdays or less shall be given a statement in writing specifically setting forth the reasons for the suspension. A copy of that statement shall be furnished to the director. No suspension of a regular employee for a period of five (5) days or less shall take effect unless, prior to the effective date, the appointing authority gives to the employee a written statement setting

forth in substance the reason and gives the employee an opportunity to respond to the reason. **Employees not covered under section 36.030.1(2), RSMo do not have the right to notice, opportunity to be heard, or appeal from a suspension.**

(C) An employee who has been convicted of, pleads guilty to, or pleads *nolo contendere* for the first time *[of]* to any criminal offense involving the use of a controlled substance, and who fails to satisfactorily meet the requirements of education and treatment as defined in section 105.1105, RSMo, shall be suspended for a period of no more than three (3) months. In the case of a suspension under this section of the law, the appointing authority must provide the director and the employee with a statement in writing specifically setting forth the case for suspension and the conditions the employee must meet in order to be returned from suspension.

(E) In the event of an instance of unacceptable conduct by an employee that in the judgment of the appointing authority does not warrant immediate suspension, dismissal, or demotion, but which requires a permanent record, the appointing authority may record such conduct in the employee's service history by notifying the personnel director in a manner prescribed by the director. **Employees do not have the right to notice, opportunity to be heard, or appeal from an unacceptable conduct record.**

(4) Demotions. An appointing authority may demote an employee in accordance with the following:

(A) No demotion for cause of a regular employee shall take effect unless, prior to the effective date, the appointing authority gives to the employee a written statement setting forth in substance the reason, informs the employee of appeal rights, provides the employee with a copy of the form for appeal to the administrative hearing commission, provides the employee with an opportunity to respond to the reason prior to the effective date, and files a copy of the statement of the reason with the director. Any regular employee who is involuntarily demoted for cause may appeal in writing to the administrative hearing commission within thirty (30) days after the effective date thereof setting forth in substance reasons for claiming that the demotion was for political, religious, or racial reasons or not for the good of the service^[-]. **Employees not covered under section 36.030.1(2), RSMo do not have the right to notice, opportunity to be heard, or appeal from a demotion and may be demoted for no reason or any reason not prohibited by law; and**

(B) No demotions for cause shall be made unless the employee to be demoted meets the minimum qualifications for the lower class and shall not be made if any regular employee in the lower class would be laid off by reason of the action^[-]; and^[-]

[(C) A regular employee shall be demoted in lieu of layoff within the employee's division of service to a position in a lower class in the same occupational job series or to a position in a lower class in which the employee previously has obtained regular status within any merit system agency. Such action shall be taken upon written request by the affected employee to the appointing authority and shall occur even though this action may result in a layoff in the lower class. The appointing authority may also, upon written request of the regular employee affected, demote such employee in lieu of layoff to a position in the employee's division of service for which the employee meets the minimum qualifications, even if this action may require layoffs in the lower class. In the event of a demotion in lieu of layoff, an employee shall have his/her name placed on the appropriate register in accordance with the procedure outlined in subsection (1)(D) for employees actually laid off.]

(5) Dismissals. *[An appointing authority may dismiss for cause any employee in his/her division occupying a position subject hereto when s/he considers the action is required in the interests of efficient administration and that the good of the service will be served.]*

(A) No dismissal of a regular employee shall take effect unless,

prior to the effective date, the appointing authority gives to the **regular** employee a written statement setting forth, in substance, the reason, informs the **regular** employee of appeal rights, provides the **regular** employee with a copy of the form for appeal to the [a]Administrative [h]Hearing [c]Commission, and provides the **regular** employee with an opportunity to respond to the reason prior to the effective date[, and files a copy of the statement of the reason with the director]. [Any regular employee who is dismissed shall have the right to appeal in writing to the administrative hearing commission within thirty (30) days after the effective date setting forth in substance reasons for claiming the dismissal was for political, religious, or racial reasons or not for the good of the service.]

[(B) If the director determines that the statement of reasons for the dismissal given by the appointing authority shows that the dismissal does not reflect discredit on the character or conduct of the employee, the director, upon request of the employee, may approve reemployment eligibility in an appropriate class or classes.

(C) For non-merit agencies that have elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or have failed to adopt dismissal procedures substantially similar to those provided for merit employees, the following applies:

1. No dismissal of a non-merit employee shall take effect unless, prior to the effective date of the dismissal—

A. The appointing authority gives the employee a written statement setting forth in substance why this dismissal is for the good of the service or not against the good of the service;

B. The appointing authority informs the employee of his/her appeal rights and provides the employee with a copy of the form for appeal to the Administrative Hearing Commission; and

C. The appointing authority files a copy of the statement with the director.

2. This regulation does not require that the appointing authority articulate "cause" or a reason for the employee's dismissal. Further, the terms "cause" and "for the good of the service" are not synonymous.

(D) Any regular non-merit employee who is dismissed from an agency that has elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or has failed to adopt dismissal procedures substantially similar to those provided for merit employees, shall have the right to appeal in writing within thirty (30) days after the effective date of the dismissal.]

(B) Employees not covered under section 36.030.1(2), RSMo do not have the right to notice, opportunity to be heard, or appeal from a dismissal and may be dismissed for no reason or any reason not prohibited by law.

(6) Resignations from the classified service shall be governed by the following provisions:

(A) Method of Resignation. To resign in good standing, an employee must give the appointing authority at least [fifteen (15)] **fourteen (14)** calendar days prior notice unless the appointing authority, because of extenuating circumstances, agrees to permit a shorter period of notice. A written resignation shall be supplied by the employee to the appointing authority[. All resignations shall be finally approved by the director as a matter of record];

[(B) Required Resignations. Any employee holding a position in the classified service shall resign his/her position prior to filing as a candidate for public office or seeking or accepting nomination for election or appointment as an official of a political party, club, or organization or serving as a member of a committee of any such group or organization; and]

[(C)](B) An employee who applies and is approved by the applicable state benefit system for long-term disability or retirement status

shall be deemed to have voluntarily resigned [(with reemployment eligibility) unless:].

1. The appointing authority approves an application made by the employee for a leave of absence without pay pursuant to 1 CSR 20-5.020(7) based on the expectation that the employee may be rehabilitated and return to work; or

2. The employee is eligible to receive a partial disability benefit under the state's long-term disability program and the appointing authority can accommodate a part-time work schedule for the employee.]

(7) Absence Without Leave. The following provisions apply to **regular** employees who are absent from duty without appropriate authorization:

(A) A[n] **regular** employee who absents him/herself from duty without prior authorization and under conditions which are not subsequently found to justify the granting of leave under these rules, depending upon the reason for and length of the absence, may be subject to appropriate discipline as provided in these rules;

(B) If a[n] **regular** employee is dismissed for a continuing period of unauthorized absence, the circumstances of which indicate that the employee does not intend to return to duty, the notice of dismissal may allow the employee the option of submitting a resignation; and

(C) If a[n] **regular** employee requests a leave of absence without pay under these rules and the appointing authority does not find it practicable to grant leave under its normal policy in those cases, a continuing absence from duty without leave after the denial of this request will require the separation of the employee. If the employee, after being so notified, does not elect to submit a voluntary resignation, the appointing authority may separate the employee by dismissal as provided in these rules. [However, dismissals shall be without prejudice unless also based on other causes reflecting discredit on the character or conduct of the employee. If the director determines that the dismissal does not reflect discredit on the character or conduct of the employee, s/he shall approve reemployment eligibility in an appropriate class or classes for the employee so dismissed.]

(8) Furloughs of Employees in the Classified Service. An appointing authority, in accordance with these rules and procedures approved by the director and the board, may place an employee in a position subject to this law on a furlough without pay for a limited period of time whenever deemed necessary by reason of shortage of funds, or for other reasons which are outside the employee's control and which do not reflect discredit on the service of the employee. When a furlough or furloughs become necessary, the appointing authority will present a plan to the director and to the board describing why a furlough of limited duration is necessary, the functional areas that are affected, the number of employees who will need to be furloughed, and a detailed plan indicating why specific employees have been designated for furlough. Furloughs need not be for a continuous period for all employees involved. [No employee will be furloughed for more than thirty (30) working days in a twelve (12)-month period.] The furlough plan shall be submitted to the board for approval. Whenever, in the opinion of the director, there is an urgent necessity for the immediate approval of a furlough plan, the director may approve a plan until the board has an opportunity to act on the plan. Upon approval of the plan, employees to be furloughed will be given at least five (5) working days notice [and will be notified of the length of the furlough period]. [If the furlough can be ended earlier than the initial period,] **Once the furlough ends**, employees will be given up to forty-eight (48) hours to report. If the appointing authority determines that it is necessary to lay the employee(s) off on a permanent basis, [the provisions for layoffs described in these rules shall apply] **a layoff may be conducted by the appointing authority.**

AUTHORITY: sections 36.025 and 36.070, RSMo [2000] Supp. 2018. Original rule filed July 9, 1947, effective July 19, 1947. For

intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 3—Personnel Selection, Appointment,
Evaluation and Separation**

EMERGENCY AMENDMENT

1 CSR 20-3.080 General Provisions and Prohibitions. The board is deleting sections (1)–(3) and amending existing section (4).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and to ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

[(1) Influences other than merit are prohibited in examinations and employment. Every appointment or promotion to a position covered by the merit system law shall be made on the basis of merit determined by that person's eligibility ratings established by competitive examinations. Demotions in and dismissals from employment shall be made for cause under rules uniformly applicable to all positions of employment. No appointment, promotion, demotion, or dismissal shall be made because of favoritism, prejudice, or discrimination. Political endorsement shall not be considered in connection with any such appointment. No person shall use or promise to use, directly or indirectly, for any consideration whatsoever any official authority or influence to secure or attempt to secure for any person an appointment or advantage in appointment to any position, or an increase in pay, promotion, or other advantage in employment (see section 36.150, RSMo).

(2) Political Activity. Employees covered by merit system provisions of the law may take part in the activities of political parties and political campaigns under the following conditions:

(A) No employee shall be a candidate for nomination or election to any partisan public office or to any nonpartisan office in conflict with the employee's duties unless such per-

son resigns, or obtains a regularly granted leave of absence from such person's position. No person elected to partisan public office, while holding office, shall be appointed to any position covered by this law;

(B) Employees may not use their official authority or influence for the purpose of interfering with the results of an election;

(C) An employee may not knowingly solicit, accept or receive a political contribution, on or off the job, from any person who is a subordinate employee of the employee;

(D) An employee may not knowingly solicit or discourage the participation in any political activity of any person who has an application for any compensation, grant, contract, ruling, license, permit, or certificate pending before the employing department of such employee or is the subject of, or a participant in, an ongoing audit, investigation, or enforcement action being carried out by the employing department of such employee;

(E) An employee may not engage in political activity—

1. While on duty;

2. In any room or building occupied in the discharge of official duties;

3. By utilizing any state resources or facilities;

4. While wearing a uniform or official insignia identifying the office or position of the employee; or

5. When using any vehicle owned or leased by the state or any agency or instrumentality of the state;

(F) No person, in any manner, shall levy or solicit any financial assistance or subscription for any political party, candidate, political fund or publication, or for any other political purpose from any employee in a position subject to the merit system portions of the state personnel law; and no employee shall act as agent in receiving or accepting any such financial contribution, subscription, or assignment of pay; and

(G) It is unlawful for any person to intimidate, threaten, command, or coerce any employee of the state to engage in, or not to engage in, any political activity, including, but not limited to, voting, or refusing to vote, for any candidate or measure in any election, making, or refusing to make, any political contribution or working, or refusing to work, on behalf of any candidate. No employee of this state shall discriminate against, discipline, or otherwise create a preference for or against any employee subject to such person's authority as a consequence of such employee's political belief or expression of such belief. Any person who violates the provisions of this section is guilty of a class three election offense, punishable by a term of imprisonment for not more than one (1) year and a fine of not more than two thousand five hundred dollars (\$2,500), or both such fine and imprisonment. Any person convicted of a violation of this section shall lose such person's position in the agency.

(3) Fraud or Obstruction. No person shall make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment or in any matter commit or attempt to commit any fraud preventing the impartial execution of the merit system law or these rules. No person, directly or indirectly, shall give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position subject to the law or these rules. No employee of the Personnel Division, examiner, or other person shall defeat, deceive, or obstruct any person in the right to examination, eligibility certification, or appointment under the law, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in a division of

service subject to the law. Any person who violates any provision of this section shall be guilty of a misdemeanor (see section 36.160, RSMo.)]

[(4)](1) Prohibition of Discrimination.

(A) **Unlawful /D/discrimination proscribed under Missouri law or any applicable federal law** against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration, because of political or religious opinions or affiliations or because of race, creed, color, national origin, ancestry, or any other non-merit factors is prohibited. Discrimination on the basis of age or sex or physical disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration.

[(B) In any case of alleged discrimination for which a review is not provided by the Missouri Commission on Human Rights and Chapter 213, RSMo, or by other provisions of these rules, an applicant or employee who feels adversely affected in an opportunity for employment, in his/her status as an employee, or in his/her condition of employment because of this discrimination, under this rule, may appeal to the Administrative Hearing Commission for a review of the alleged discriminatory action or practice. The request for this review shall be filed by the applicant or employee in writing with the Administrative Hearing Commission within thirty (30) calendar days after the date on which the action or practice is alleged to have occurred and shall set forth in substantial detail the particulars and other information as may be required by the Administrative Hearing Commission.]

AUTHORITY: sections 36.060 and 36.070, RSMo Supp. [2010 and section 36.070, RSMo 2000] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 4—Appeals, Investigations, Hearings and
Grievances**

EMERGENCY RESCISSION

1 CSR 20-4.010 Appeals. This rule proscribed the circumstances under which examination applicants and employees may have filed appeals with the Personnel Advisory Board and established the procedures for the hearing of those appeals.

PURPOSE: This rule is being rescinded because it is inconsistent with Chapter 36, RSMo, effective August 28, 2018.

EMERGENCY STATEMENT: This emergency rescission implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency rescission of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. The existing rule is inconsistent with Chapter 36, RSMo, effective August 28, 2018, and must be rescinded to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018).

A proposed rescission which covers the same material will be filed at a later date to be published in the Missouri Register. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

AUTHORITY: section 36.060, RSMo Supp. 2010 and section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency rescission filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed rescission covering this same material will be filed at a later date to be published in the Missouri Register.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 4—Appeals, Investigations, Hearings and
Grievances**

EMERGENCY AMENDMENT

1 CSR 20-4.020 Grievance Procedures. The board is adding a new section (1) and amending existing sections (1)–(3).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

(1) No state agency may establish a grievance procedure permitting a state employee, other than a regular employee, to grieve any discipline, suspension, demotion, notice of unacceptable conduct or conditional employment, leave denial, transfer, shift change, reprimand, or furlough however any of the same may be denominated, imposed by an appointing authority, or any employment action taken by an appointing authority that is alleged to have an adverse financial impact on a state employee or enter into an agreement with a certified bargaining unit providing for the same or any alternative dispute resolution procedure regarding the matters prohibited herein. The foregoing prohibitions shall not apply to grievance procedures alleging that one (1) of the foregoing types of employment actions was taken for a

reason prohibited by law.

[(1)](2) Grievance Procedure Established. The settlement of differences within the classified service between management and employees shall be provided through the establishment of an orderly grievance procedure *[in] for each [division of service subject to the State Personnel Law] position covered under section 36.030.1(2), RSMo.*

(A) The established grievance procedure in any division of service shall apply to employment conditions and related matters over which the appointing authority has complete or partial jurisdiction and for which redress is not provided by the personnel law, rules, or procedures.

(B) Notwithstanding subsection (A) of this section, an agency may enter into an agreement with a certified bargaining representative that allows for an alternative dispute resolution procedure that a represented employee may elect in lieu of the agency's established grievance procedures or the employee's right to appeal to the Administrative Hearing Commission as provided by the personnel law, rules, or procedures.

(C) Unless an agency has entered into an agreement with a certified bargaining representative that provides otherwise, the grievance procedure shall not apply in instances where the grievance involves personnel transactions or administrative decisions of the appointing authority for which the personnel law or rules provide a specific appeal to the Administrative Hearing Commission. Because the director of the Division of Personnel is not subject to an established grievance procedure, neither a grievance procedure nor alternative dispute resolution procedure may include provisions for grieving decisions made by the director under authority granted by the personnel law or regulations.

(D) The responsibility and authority of appointing authorities to create, promulgate, and enforce operational policies for the efficient and effective operation of the divisions of service is not altered by the ability of employees to use the grievance process to question the application of these policies or to seek clarifications or modifications of them.

[(2)](3) Objectives of Grievance Settlements. To every extent possible, the grievance procedure shall be designed to—

(A) Resolve the grievance quickly;

(B) Settle the disagreement informally at the employee-supervisor level, when possible;

(C) Correct, if possible, the cause of the grievance to prevent future similar complaints; and

(D) *[Assure] Promote* fair and equitable treatment of *[all]* employees and to promote harmonious relations generally among employees, supervisors, and administrative staff.

[(3)](4) Management Responsibility. *[Each appointing authority shall prepare and submit to the personnel director for review, for the purpose of ascertaining conformance with this rule, formal written procedures for submission of grievances by employees and for prompt and orderly consideration and determination of the grievances by supervisors and administrators. The appointing authority shall be responsible for carrying out the provisions of the grievance procedure.]*

(A) Unless an agency has entered into an agreement with a certified bargaining representative that provides for an alternative method of resolving grievances which includes subjects for which redress is provided by the personnel law, rules, or procedures, the grievance procedures of each division of service shall distinguish between issues subject to review through personnel law, rules, or procedures and other matters subject to the grievance procedure. If there are separate procedures for filing internal complaints of discrimination, sexual harassment, retaliation for grievances, or other matters, these shall also be identified.

(B) The grievance procedure shall include the following minimum provisions:

1. Except where the agency has a separate procedure as stated in subsection (3)(A), or unless the agency has entered into an agreement with a certified bargaining unit representative that provides otherwise, the procedure shall begin with the immediate supervisor and, if not resolved to the satisfaction of the grievant at the beginning or succeeding steps, shall end with the appointing authority;

2. The procedure shall require that the grievance and responses be in written form beginning at the first step, unless agreed to by both parties. A copy of all written responses will be delivered to the grievant. A copy of all written grievances and responses will be filed with the appointing authority or his/her designated representative;

3. The procedure shall include specific time frames for filing and responding to grievances at each step. The procedure may include a method of extending time frames initiated by the grievant or management, or both;

4. The procedure shall include a provision prohibiting retaliation or harassment for filing a grievance and for investigating charges of alleged retaliation or harassment. Each agency must give employees alleging retaliation for grievances an opportunity to address this allegation to a higher level than the alleged incident;

5. The procedure shall permit group as well as individual grievances;

6. The procedure shall allow the grievant reasonable time off from duty for attendance at formal grievance hearings; and

7. The procedure shall include a method for informing all employees of the existence of the grievance procedure and for providing a copy of the grievance procedure and appropriate forms to employees desiring to file a grievance.

AUTHORITY: sections 36.025 and 36.070, RSMo [2000] Supp. 2018. Original rule filed Dec. 8, 1975, effective Dec. 19, 1975. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 70—Safe at Home: Address Confidentiality Program

EMERGENCY AMENDMENT

15 CSR 30-70.010 Definitions. The secretary of state is amending sections (1), (4), (5), (12), and (14), adding a new section (2), and renumbering as needed.

PURPOSE: This rule is being amended to update its contents to align with statutory changes to the Safe at Home laws in 2018.

EMERGENCY STATEMENT: The secretary of state determined that this emergency amendment is necessary to preserve a compelling governmental interest.

This emergency amendment is necessary to address statutory sections enacted in HB 1461 (2018), specifically sections 589.660 to 589.681, RSMo, which become law on August 28, 2018, and amend components of the Safe at Home program. Since 2007, the Safe at Home: Address Confidentiality Program has helped victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of individuals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them. These services keep survivors' confidential addresses out of the hands of their assailants.

The secretary of state needs this emergency rule to ensure that the

rules associated with *Safe at Home* are active shortly after HB 1461 becomes law on August 28, 2018. This emergency rule provides definitions of terms for administration of the program, which will allow the secretary of state to continue operating *Safe at Home* effectively.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The secretary of state believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 23, 2018, becomes effective September 2, 2018, and expires February 28, 2019.

(1) Address—A residential street address, school address, or work address of a [person, as specified on the person's application to be a] *Safe at Home* Program participant.

(2) **Address Confidentiality Program**—A program to protect victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of individuals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them.

[(2)](3) Authorization card/letter—Card or letter issued by the secretary of state to a *Safe at Home* Program participant upon certification to the *Safe at Home* Program, which includes the *Safe at Home* Program participant's name, authorization code, voter code, designated address, signature, and certification expiration date.

[(3)](4) Authorization code—A number assigned to a *Safe at Home* Program participant upon acceptance into the *Safe at Home* Program.

[(4)](5) Application—Standard application form provided by the secretary of state which must be completed by an applicant to the *Safe at Home* Program [with approval of] facilitated by an application assistant as defined by section 589.663, RSMo.

[(5)](6) Application assistant—An employee or volunteer of a [state or local] government agency, or of a nonprofit program that provides counseling, referral, shelter, or other specialized service to victims of domestic violence, rape, sexual assault, human trafficking, [or] stalking, or other crimes and who has been designated by the respective agency or program, and who has been trained and registered by the secretary of state to assist individuals in the completion of the *Safe at Home* Program participation applications.

[(6)](7) Certification—The process by which an applicant is determined eligible to participate in the *Safe at Home* Program.

[(7)](8) Designated address—The address assigned to a *Safe at Home* Program participant by the secretary.

[(8)](9) Mailing address—An address that is recognized for delivery by the United States Postal Service.

[(9)](10) Program—The *Safe at Home: Address Confidentiality* Program established in section 589.663, RSMo.

[(10)](11) Program manager—Employee of the Office of the Secretary of State designated by the secretary to administer the *Safe at Home* Program pursuant to sections 589.660–589.681, RSMo.

[(11)](12) Program participant—A person certified by the secretary of state as eligible to participate in the *Safe at Home* Program.

[(12)](13) Qualified agency—A [state or local] government agency or nonprofit program that provides counseling, referral, shelter, or other specialized service to victims of domestic [abuse] violence, rape, sexual assault, human trafficking, [or] stalking, or other crimes.

[(13)](14) Secretary—The secretary of state. This may also include the secretary of state's office and the secretary's designee.

[(14)](15) Voter code—A [number] code assigned to a *Safe at Home* Program participant upon acceptance into the *Safe at Home* Program which is to be used for identification purposes when registering to vote or when voting.

AUTHORITY: section 589.681, RSMo 2016. Emergency rule filed Aug. 17, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed Aug. 17, 2007, effective Feb. 29, 2008. Emergency amendment filed Sept. 9, 2016, effective Sept. 19, 2016, expired March 17, 2017. Amended: Filed Sept. 9, 2016, effective March 30, 2017. Emergency amendment filed Aug. 23, 2018, effective Sept. 2, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 70—Safe at Home: Address Confidentiality Program

EMERGENCY AMENDMENT

15 CSR 30-70.020 Application Assistant Training, Registration, and Renewal. The secretary of state is amending sections (2), (4), and (5).

PURPOSE: This rule is being amended to update its contents to align with statutory changes to the *Safe at Home* laws in 2018.

EMERGENCY STATEMENT: The secretary of state determined that this emergency amendment is necessary to preserve a compelling governmental interest.

This emergency amendment is necessary to address statutory sections enacted in HB 1461 (2018), specifically sections 589.660 to 589.681, RSMo, which become law on August 28, 2018, and amend components of the *Safe at Home* program. Since 2007, the *Safe at Home: Address Confidentiality* Program has helped victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of individuals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them. These services keep survivors' confidential addresses out of the hands of their assailants.

The secretary of state needs this emergency amendment to ensure that the rules associated with *Safe at Home* are active shortly after HB 1461 becomes law on August 28, 2018. This emergency rule describes the manner and process for application and registration to the program by application assistants, which will allow the secretary of state to continue operating *Safe at Home* effectively.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The secretary of state believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 23, 2018, becomes effective September 2, 2018, and expires February 28, 2019.

(2) The application assistant may only be registered when the prospective application assistant—

(A) Is [a service provider or works] an employee or volunteer with a qualified agency and can [demonstrate] confirm to the secretary relevant qualifications to work with victims of domestic [abuse] violence, rape, sexual assault, human trafficking, [or] stalking, or other crimes;

(C) Completes an [application for prospective application assistants on a form] application assistant agreement form provided by the secretary[, which includes, but is not limited to, the applicant's name, service provider or agency, address of service provider or agency, telephone number of service provider or agency, supervisor's name, and relevant qualifications]. The application assistant [application] agreement form, 2018, incorporated herein by reference, is published by the Missouri Secretary of State, PO Box 1767, Jefferson City, MO 65102-1767. This form does not include any amendments or additions. The form is available at the secretary of state's office or may be obtained by email to safeathome@sos.mo.gov or by mailing a written request to Safe at Home, PO Box 1409, Jefferson City, MO 65102-1409;

(4) The application assistant shall agree not to discriminate against any client, or potential program participant[, because of race, creed, color, national origin, gender, sexual orientation, age, or mental, physical, or sensory disability] pursuant to Missouri law.

(5) The application assistant performing under this contract is not deemed to be an employee of the secretary or an agent of the secretary in any manner whatsoever. The application assistant will not hold [herself/himself] oneself out as, nor claim to be an officer or employee of the secretary or of the state of Missouri simply [because she/he is a] by holding the title of program application assistant and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the secretary or of the state of Missouri.

AUTHORITY: section 589.681, RSMo 2016. Emergency rule filed Aug. 17, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed Aug. 17, 2007, effective Feb. 29, 2008. Emergency amendment filed Sept. 9, 2016, effective Sept. 19, 2016, expired March 17, 2017. Amended: Filed Sept. 9, 2016, effective March 30, 2017. Emergency amendment filed Aug. 23, 2018, effective Sept. 2, 2018, expires Feb 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 70—Safe at Home: Address Confidentiality Program

EMERGENCY AMENDMENT

15 CSR 30-70.030 Program Participant Application and Certification Process. The secretary of state is amending sections (1) and (3)–(7).

PURPOSE: This rule is being amended to update its contents to align with statutory changes to the Safe at Home laws in 2018.

EMERGENCY STATEMENT: The secretary of state determined that this emergency amendment is necessary to preserve a compelling governmental interest.

This emergency amendment is necessary to address statutory sections enacted in HB 1461 (2018), specifically sections 589.660 to 589.681, RSMo, which become law on August 28, 2018, and amend components of the Safe at Home program. Since 2007, the Safe at

Home: Address Confidentiality Program has helped victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of individuals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them. These services keep survivors' confidential addresses out of the hands of their assailants.

The secretary of state needs this emergency amendment to ensure that the rules associated with Safe at Home are active shortly after HB 1461 becomes law on August 28, 2018. This emergency rule describes the manner and process for application and certification to the program by prospective participants, which will allow the secretary of state to continue operating Safe at Home effectively.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 23, 2018, becomes effective September 2, 2018, and expires February 28, 2019.

(1) An applicant to the program [applicant] shall complete and sign the standard application form provided by the secretary and provide all the information required under section 589.663 RSMo and these rules. The standard application form shall include, but not be limited to, the [application preparation] date the application was prepared; the applicant's signature; and the signature and registration number of the application assistant who assisted the applicant in applying to become a program participant, as provided in section 589.663 RSMo; a designation of the secretary as agent for purposes of service of process and for receipt of first-class mail, legal documents, and certified mail; a [sworn] signed statement [by] that the applicant [that she/he] has good reason to believe that [she/he] the applicant is a victim [of domestic violence, rape, sexual assault, human trafficking, or stalking,] as defined by the statute or resides in the same household as a victim and [that she/he] fears [further violent acts from his or her assailant] future harm; [the] a mailing address where the applicant may be contacted by the secretary and the telephone number or numbers where the applicant may be called by the secretary; and [any] one (1) or more address(es) that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household. The applicant shall be provided the option to sign a form authorizing the secretary, or the secretary's designee, to open and review legal documents addressed to the program participant at the designated address, including, but not limited to, summonses, writs, demands, notices, or service of process that are delivered by personal service, certified mail, or United States Postal Service before forwarding such documents to the participant, to enable the secretary to notify the participant if an immediate response is required from the participant. The applicant may attach any relevant supporting documentation such as police reports or court documents to the application. The program participant application form, [2007] 2018, incorporated herein by reference, is published by the Missouri Secretary of State, PO Box 1767, Jefferson City, MO 65102-1767. This form does not include any amendments or additions. The form is available at the secretary of state's office or may be obtained by email to safeathome@sos.mo.gov or by mailing a written request to Safe at Home, PO Box 1409, Jefferson City, MO 65102-1409.

(3) The application assistant who assists the applicant shall forward by first-class mail or by facsimile transmission (FAX) the completed application to the program manager of the secretary within twenty-four (24) hours of completion. If the application is forwarded by FAX

the application assistant shall also mail the original application to the secretary. The application assistant shall not *[make or]* keep a copy of the **completed** application. The secretary shall provide return envelopes and a FAX number to application assistants to expedite return of the program applications.

(4) A properly completed application shall be effective on the day that it is certified by the program manager. The program manager shall, within five (5) **business** days of receipt of a completed application, either certify the applicant for participation in the program or notify the applicant of the reason(s) why the applicant was not certified.

(5) An individual who is certified as a program participant shall be issued an authorization card/letter which includes *[her/his]* the **participant's** name, authorization code, designated address, voter code, signature, and certification expiration date immediately upon certification by the program manager.

(6) The term of a program participant's certification shall be four (4) years following the *[effective]* **certification** date of *[her/his]* the application unless the certification is withdrawn **by the participant** or **cancel/led by the secretary** before that date pursuant to section 589.666, RSMo or these rules. The program manager shall send a program participant notification of *[lapsing]* **an expiring** certification and a *[reapplication]* **renewal** form not later than four (4) weeks prior to the expiration of the program participant's certification.

(7) If there is a change in the program participant's name, mailing address, or other address from the one (1) listed on the application, the program participant shall notify the program manager of such change within ten (10) days of the change on a form prescribed by the secretary.

AUTHORITY: section 589.681, RSMo 2016. Emergency rule filed Aug. 17, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed Aug. 17, 2007, effective Feb. 29, 2008. Emergency amendment filed Sept. 9, 2016, effective Sept. 19, 2016, expired March 17, 2017. Amended: Filed Sept. 9, 2016, effective March 30, 2017. Emergency amendment filed Aug. 23, 2018, effective Sept. 2, 2018, expires Feb 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 70—Safe at Home: Address Confidentiality Program

EMERGENCY AMENDMENT

15 CSR 30-70.040 Cancellation of Program Certification. The secretary of state is amending sections (1), (2), (4), and (5).

PURPOSE: This rule is being amended to update its contents to align with statutory changes to the Safe at Home laws in 2018.

EMERGENCY STATEMENT: The secretary of state determined that this emergency amendment is necessary to preserve a compelling governmental interest.

This emergency amendment is necessary to address statutory sections enacted in HB 1461 (2018), specifically sections 589.660 to 589.681, RSMo, which become law on August 28, 2018, and amend components of the Safe at Home program. Since 2007, the Safe at Home: Address Confidentiality Program has helped victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of indi-

viduals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them. These services keep survivors' confidential addresses out of the hands of their assailants.

The secretary of state needs this emergency rule to ensure that the rules associated with Safe at Home are active shortly after HB 1461 becomes law on August 28, 2018. This emergency amendment describes the manner and process for cancellation of certification to the program, which will allow the secretary of state to continue operating Safe at Home effectively.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 23, 2018, becomes effective September 2, 2018, and expires February 28, 2019.

(1) Program certification shall be canceled if any of the following occur:

(A) The program participant fails to notify the program manager in writing signed by the participant of a change in the program participant's name or mailing address within ten (10) business days of the change; or

(B) *[Any one of the cancellation conditions provided for by section 589.666, RSMo.]* **The participant relocates outside of the state of Missouri; or**

(C) **The applicant or program participant violates subdivision (2) of section 589.663.**

(2) Upon notification of cancellation of *[her/his]* **a participant's** program certification, the program participant shall immediately destroy *[their]* **the** authorization card/letter by cutting it into at least two (2) pieces and returning the pieces to the program manager.

(4) A program participant whose certification *[was]* **has been** canceled *[for failure to inform the program manager of a change of name or mailing address], withdrawn, or expired* may reapply for certification.

(5) The secretary shall not make a former program participant's address available for inspection or copying except as provided for by sections **589.664**, 589.672, and 589.675, RSMo.

AUTHORITY: section 589.681, RSMo [Supp. 2007] 2016. Emergency rule filed Aug. 17, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed Aug. 17, 2007, effective Feb. 29, 2008. Emergency amendment filed Aug. 23, 2018, effective Sept. 2, 2018, expires Feb 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 70—Safe at Home: Address Confidentiality Program

EMERGENCY AMENDMENT

15 CSR 30-70.050 Exercise of Program Participant's Privileges. The secretary of state is amending sections (1)–(6).

PURPOSE: This rule is being amended to update its contents to align with statutory changes to the Safe at Home laws in 2018.

EMERGENCY STATEMENT: *The secretary of state determined that this emergency amendment is necessary to preserve a compelling governmental interest.*

This emergency amendment is necessary to address statutory sections enacted in HB 1461 (2018), specifically sections 589.660 to 589.681, RSMo, which become law on August 28, 2018, and amend components of the Safe at Home program. Since 2007, the Safe at Home: Address Confidentiality Program has helped victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of individuals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them. These services keep survivors' confidential addresses out of the hands of their assailants.

The secretary of state needs this emergency amendment to ensure that the rules associated with Safe at Home are active shortly after HB 1461 becomes law on August 28, 2018. This emergency amendment describes the manner and process of exercise of program participant privileges, which will allow the secretary of state to continue operating Safe at Home effectively.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 23, 2018, becomes effective September 2, 2018, and expires February 28, 2019.

(1) A program participant shall request that a court or [state or local] government agency use the designated address assigned by the secretary as [her/his] the participant's address at the time of creation of any new record.

(2) A program participant shall show [her or his] the authorization card/letter to the court or [state or local] government agency official creating a new record and request address confidentiality through use of the designated address [in lieu of her/his address]. The designated address shall appear on the program participant's authorization card/letter.

(3) Authorized court or [state or local] government agency personnel may make a file photocopy of the authorization card/letter and shall immediately return the authorization card/letter to the program participant.

(4) A court or [state or local] government agency shall accept the designated address unless the agency has received a written record disclosure determination from the secretary under section 589.669 or 589.672, RSMo and these rules.

(5) A court or [state or local] government agency shall not question the program participant about the details or circumstances of [her/his] the participant's inclusion in the program. Rather, the court or agency shall accept the determination made by the secretary that [she/he] the participant is a certified program participant.

(6) Authorized court or [state or local] government agency personnel may request verification from the secretary of a program participant's residency in a geographic service district where such information is necessary to determine eligibility for agency services for the program participant or the participant's minor children, including but not limited to, the verification of the participant's residence in a school or library district. Such requests shall be made in writing to the secretary of state and include the participant's name, authorization number, and the identified geographic area or service

district where the participant must reside to receive services from the agency, or the request may be made on a form prescribed by the secretary. The secretary may respond verbally to such requests and confirm residency in the district without disclosing the program participant's address.

AUTHORITY: *section 589.681, RSMo [Supp. 2007] 2016. Emergency rule filed Aug. 17, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed Aug. 17, 2007, effective Feb. 29, 2008. Emergency amendment filed Aug. 23, 2018, effective Sept. 2, 2018, expires Feb 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 70—Safe at Home: Address Confidentiality Program

EMERGENCY AMENDMENT

15 CSR 30-70.060 Service of Process. The secretary of state is amending section (2).

PURPOSE: *This rule is being amended to update its contents to align with statutory changes to the Safe at Home laws in 2018.*

EMERGENCY STATEMENT: *The secretary of state determined that this emergency amendment is necessary to preserve a compelling governmental interest.*

This emergency amendment is necessary to address statutory sections enacted in HB 1461 (2018), specifically sections 589.660 to 589.681, RSMo, which become law on August 28, 2018, and amend components of the Safe at Home program. Since 2007, the Safe at Home: Address Confidentiality Program has helped victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of individuals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them. These services keep survivors' confidential addresses out of the hands of their assailants.

The secretary of state needs this emergency rule to ensure that the rules associated with Safe at Home are active shortly after HB 1461 becomes law on August 28, 2018. This emergency amendment describes the manner and process for service of process, which will allow the secretary of state to continue operating Safe at Home effectively.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 23, 2018, becomes effective September 2, 2018, and expires February 28, 2019.

(2) Service on the secretary of any such summons, writ, demand, notice, or process shall be made by mailing to [the designated address] Safe at Home - PO Box 1409, Jefferson City, MO, 65102 or by hand delivering to the secretary [at her/his office], located at 600 West Main Street, Jefferson City, [Missouri] MO, 65101, two (2) copies of the summons, writ, notice, demand, or process.

AUTHORITY: *section 589.681, RSMo [Supp. 2007] 2016. Emergency rule filed Aug. 17, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed Aug. 17, 2007, effective Feb. 29,*

2008. Emergency amendment filed Aug. 23, 2018, effective Sept. 2, 2018, expires Feb 28, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 70—Safe at Home: Address Confidentiality Program

EMERGENCY AMENDMENT

15 CSR 30-70.070 Program Participant Renewal. The secretary of state is amending sections (1)–(3).

PURPOSE: This rule is being amended to update its contents to align with statutory changes to the Safe at Home laws in 2018.

EMERGENCY STATEMENT: The secretary of state determined that this emergency amendment is necessary to preserve a compelling governmental interest.

This emergency amendment is necessary to address statutory sections enacted in HB 1461 (2018), specifically sections 589.660 to 589.681, RSMo, which become law on August 28, 2018, and amend components of the Safe at Home program. Since 2007, the Safe at Home: Address Confidentiality Program has helped victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of individuals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them. These services keep survivors' confidential addresses out of the hands of their assailants.

The secretary of state needs this emergency amendment to ensure that the rules associated with Safe at Home are active shortly after HB 1461 becomes law on August 28, 2018. This emergency amendment describes the manner and process for program participant certification renewal, which will allow the secretary of state to continue operating Safe at Home effectively.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The secretary of state believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 23, 2018, becomes effective September 2, 2018, and expires February 28, 2019.

(1) A program participant may renew [her/his] program participation by filing a properly completed renewal form with the program manager. The renewal form shall be sent to the participant with the notification of lapsing certification required by section 589.663, RSMo and these rules at least four (4) weeks before the expiration of the participant's current certification.

(2) The program manager shall certify a program participant, who has filed a properly completed certification renewal form, to participate in the program for an additional four- (4-)/-] year term unless the certification is withdrawn or canceled before that date. **The renewal need only be signed by the participant and need not be made before an application assistant.**

(3) Upon receipt of a properly completed renewal form, the program manager shall issue to the program participant a new authorization card/letter which includes the program participant's name, authorization code, voter code, designated address, signature, and new certification expiration date. Upon receipt of the new authorization

card/letter, the participant shall destroy [her/his] the expired card.

AUTHORITY: section 589.681, RSMo [Supp. 2007] 2016. Emergency rule filed Aug. 17, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed Aug. 17, 2007, effective Feb. 29, 2008. Emergency amendment filed Aug 23, 2018, effective Sept. 2, 2018, expires Feb 28, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 70—Safe at Home: Address Confidentiality Program

EMERGENCY AMENDMENT

15 CSR 30-70.080 Agency Disclosure Request. The secretary of state is amending sections (1), (2), (5), and (6).

PURPOSE: This rule is being amended to update its contents to align with statutory changes to the Safe at Home laws in 2018.

EMERGENCY STATEMENT: The secretary of state determined that this emergency amendment is necessary to preserve a compelling governmental interest.

This emergency amendment is necessary to address statutory sections enacted in HB 1461 (2018), specifically sections 589.660 to 589.681, RSMo, which become law on August 28, 2018, and amend components of the Safe at Home program. Since 2007, the Safe at Home: Address Confidentiality Program has helped victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of individuals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them. These services keep survivors' confidential addresses out of the hands of their assailants.

The secretary of state needs this emergency amendment to ensure that the rules associated with Safe at Home are active shortly after HB 1461 becomes law on August 28, 2018. This emergency amendment describes the manner and process for agency disclosure requests, which will allow the secretary of state to continue operating Safe at Home effectively.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The secretary of state believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 23, 2018, becomes effective September 2, 2018, and expires February 28, 2019.

(1) [An] **The director or equivalency of a government agency or the designee of the director or equivalency** requesting disclosure of a program participant's address [or of a category of participants or records] under sections 589.669 and 589.672, RSMo, must [provide in writing to the secretary:]—

(A) **Provide the following information in writing to the secretary:**

[(A)]1. Identification of the statute or administrative rule which demonstrates the agency's bona fide requirement and authority for the use of the address and mailing address of an individual or individuals;

[(B)]2. Identification [and description of the specific record or record series for which disclosure] of the specific program participant whose address is requested;

*[(C)]*3. Identification of the individuals who will have access to the record or records; and

*[(D)]*4. An explanation of why the agency cannot meet its statutory or administrative obligations by changing its procedures or rules.; or

(B) Submit the request on a form prescribed by the secretary.

(2) The secretary shall *[accept and]* review an agency's request for disclosure. The secretary shall **attempt to** notify the program participant of the request for disclosure using the **last known** contact information *[provided in]* of the participant*['s program application]*.

(5) If the secretary determines that an agency has a bona fide statutory or administrative requirement for the use of a program participant's address *[and mailing address information]* and that the address *[and mailing address information]* will be used only for those statutory and administrative purposes, the secretary may issue a written disclosure order for the agency. The secretary shall inform the program participant of the disposition of the request for disclosure using the **last known** contact information *[provided in the participant's program application]*. When granting disclosure, the secretary may include:

(6) When a program participant requests use of the designated address in a record, and the agency has received a disclosure order for that record $[:]$ **from the secretary—**

AUTHORITY: section 589.681, RSMo [Supp. 2007] 2016. Emergency rule filed Aug. 17, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed Aug. 17, 2007, effective Feb. 29, 2008. Emergency amendment filed Aug. 23, 2018, effective Sept. 2, 2018, expires Feb 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 70—Safe at Home: Address Confidentiality Program

EMERGENCY AMENDMENT

15 CSR 30-70.090 Disclosure to Law Enforcement. The secretary of state is amending sections (1), (2), (4), and (5).

PURPOSE: This rule is being amended to update its contents to align with statutory changes to the Safe at Home laws in 2018.

EMERGENCY STATEMENT: The secretary of state determined that this emergency amendment is necessary to preserve a compelling governmental interest.

This emergency amendment is necessary to address statutory sections enacted in HB 1461 (2018), specifically sections 589.660 to 589.681, RSMo, which become law on August 28, 2018, and amend components of the Safe at Home program. Since 2007, the Safe at Home: Address Confidentiality Program has helped victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes who fear for their safety, as well as the safety of individuals residing in the same household as the victim, by authorizing the use of designated addresses for such victims, their minor children, and individuals residing with them. These services keep survivors' confidential addresses out of the hands of their assailants.

The secretary of state needs this emergency amendment to ensure that the rules associated with Safe at Home are active shortly after HB 1461 becomes law on August 28, 2018. This emergency amendment describes the manner and process for disclosure to law enforcement, which will allow the secretary of state to continue operating Safe at Home effectively.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 23, 2018, becomes effective September 2, 2018, and expires February 28, 2019.

(1) A law enforcement *[officer]* agency requesting a program participant's address *[or mailing address]* under section 589.672, RSMo, must provide the request to the secretary. *[The secretary may accept a verbal request upon the secretary's determination that an emergency exists that requires immediate disclosure or may require a request to be in writing. The request must contain:]* **The law enforcement agency must—**

(A) Provide the following information in writing to the secretary:

*[(A)]*1. The reason the address is required by that law enforcement officer or agency;

*[(B)]*2. Identification *[and description of the specific record or record series for which the exemption]* of the **specific program participant whose address** is requested;

*[(C)]*3. Identification of the individuals who will have access to the record;

*[(D)]*4. An explanation of why the law enforcement agency cannot meet its obligations by changing its procedures or rules; **and**

*[(E)]*5. Identification of the requesting individual's direct supervisor and contact information for that supervisor; *[and]* **or**

[(F) In the case of a verbal request, the circumstances justifying a determination that an emergency exists.]

(B) In the event of an emergency that requires immediate disclosure, as determined by the secretary, verbally provide all of the requirements of (1)(A)1.-5. as well as the emergency circumstances that necessitate the immediate disclosure of information; or

(C) Submit the request on a form prescribed by the secretary.

(2) The secretary shall review the request. The secretary shall **attempt to** notify the program participant of the request for disclosure using the **last known** contact information *[provided in]* of the participant*['s program application]*.

(4) If the secretary determines that a law enforcement *[officer or]* agency has a bona fide requirement for the use of a participant's address *[or mailing address information]* and that the address *[or mailing address information]* will be used only for the purpose of satisfying that requirement, the secretary may issue a written or verbal disclosure order for the law enforcement agency. A written record shall be maintained of the facts relating to a verbal order. The secretary shall inform the program participant of the disposition of the request for disclosure using the **last known** contact information *[provided in]* of the participant*['s program application]*. When granting the request, the secretary may include:

(5) When a program participant requests use of the designated address in a record, and the law enforcement *[officer or]* agency has received a written disclosure order for that record $[:]$ **from the secretary—**

(A) The law enforcement *[officer or]* agency shall immediately provide a copy of the written order to the requesting program participant; and

(B) The law enforcement *[officer or]* agency shall notify the program manager of the occurrence and denial of the program participant's request.

AUTHORITY: section 589.681, RSMo [Supp. 2007] 2016. Emergency rule filed Aug. 17, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed Aug. 17, 2007, effective Feb. 29, 2008. Emergency amendment filed Aug. 23, 2018, effective Sept. 2, 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 2040—Office of Athletics
Chapter 2—Licenses and Permits**

EMERGENCY AMENDMENT

20 CSR 2040-2.011 Licenses. The office is amending sections (1), (3)–(5), and (7)–(8).

PURPOSE: This emergency amendment is establishing fees for new license types as prescribed in House Bill 1388 signed into law and effective August 28, 2018.

EMERGENCY STATEMENT: This emergency amendment is necessary because after August 28, 2018 when House Bill 1388 became effective, promoters in Missouri will not be able to promote amateur mixed martial arts and kickboxing until the office collects a license fee and licenses all individual contestants and promoters (small businesses).

House Bill 1388 eliminated amateur sanctioning groups from sanctioning amateur mixed martial arts and kickboxing events in the state of Missouri. Only the Missouri Office of Athletics has legal authority after August 28, 2018 to regulate those types of events. Without proper authority to collect fees, the office cannot regulate amateur sports as required by House Bill 1388.

Several promoters are currently contracted with venues in the state of Missouri to provide amateur shows shortly after August 28, 2018, the failure of this emergency amendment going into effect, will prevent promoters (small businesses) in the state of Missouri from promoting amateur type of events until such time that the office can legally collect license fees.

The other changes in this rule are necessary because House Bill 1388 deregulates licensure for announcers and managers; therefore, the authority to collect a fee is being eliminated. A few of the other changes in the rule would normally be handled through the normal rulemaking process, but since this rule is being considered for emergency rulemaking, all changes that are being considered have been placed in the rule.

As a result, the Missouri Office of Athletics finds that there is a compelling governmental interest that requires this emergency action. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri Office of Athletics believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 28, 2018, becomes effective September 7, 2018, and expires March 5, 2019.

(1) All contestants, referees, judges, [managers,] seconds, physicians, timekeepers, promoters, and matchmakers[, and announcers] must apply for and submit the proper fee to be issued a license. All contestants, referees, judges, [managers,] seconds, physicians, timekeepers, promoters, and matchmakers[, and announcers] must be issued a license before participating in a contest.

(3) An applicant for a professional boxing, professional wrestling, professional kickboxing, [or] professional full-contact karate, **professional mixed martial arts, and amateur mixed martial arts** contestant license shall submit to any medical examination or testing

ordered by the office.

(4) Each contestant shall consistently use the same name in contests and provide the office with the contestant's legal name and the ring name, if any, to be used in a professional boxing, professional wrestling, professional kickboxing, [or] professional full-contact karate, **professional mixed martial arts, and amateur mixed martial arts** bout. The inspector may require all contestants to present photo identification prior to competing in the contest.

(5) Licensees must comply with all applicable federal regulations governing professional boxing, professional wrestling, professional kickboxing, [and] professional full-contact karate, **professional mixed martial arts, and amateur mixed martial arts.**

(7) The following is a schedule of fees for initial licensure and renewal:

(B) Promoter—Amateur	\$400.00
[(B)](C) Contestant—Professional	\$ 40.00
(D) Contestant—Amateur	\$ 30.00
[(C)](E) Referee—Professional	\$ 50.00
[(D)](F) Judge—Professional	\$ 50.00
[(E)](G) Matchmaker	\$200.00
[(F) Manager	\$100.00]
[(G)](H) Second	\$ 20.00
[(H) Announcer	\$ 20.00]

(8) The following is a schedule of fees for federal identification cards:

(A) Initial and duplicate federal identification card	\$15.00
[(B) Duplicate federal identification card	\$10.00]

AUTHORITY: section 317.006, RSMo [2016] Supp. 2018. This rule originally filed as 4 CSR 40-2.011. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 28, 2018, effective Sept. 7, 2018, expires March 5, 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 2040—Office of Athletics
Chapter 2—Licenses and Permits**

EMERGENCY AMENDMENT

20 CSR 2040-2.021 Permits. The office is amending section (2) and adding new section (6).

PURPOSE: This emergency amendment is establishing fees for new license types as prescribed in House Bill 1388 signed into law to be effective August 28, 2018.

EMERGENCY STATEMENT: This emergency amendment is necessary because after August 28, 2018, promoters in Missouri will not be able to promote amateur mixed martial arts and kickboxing until such times that the office may collect a permit fee from promoters (small businesses) to secure dates for their events.

House Bill 1388 eliminated amateur sanctioning groups from sanctioning amateur mixed martial arts and kickboxing events in the state of Missouri. Only the Missouri Office of Athletics has legal authority after August 28, 2018 to regulate those types of events. Without proper authority to collect permit fees, the office cannot regulate amateur sports.

Several promoters are currently contracted with venues in the state of Missouri to provide amateur shows shortly after August 28, 2018, the failure of this emergency amendment going into effect, will prevent promoters (small businesses) in the state of Missouri from promoting amateur type of events until such time that the office can legally collect permit fees.

As a result, the Missouri Office of Athletics finds that there is a compelling governmental interest that requires this emergency action. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri Office of Athletics believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 28, 2018, becomes effective September 7, 2018, and expires March 5, 2019.

(2) Fees for [boxing and] professional boxing, professional kickboxing, professional full-contact karate, professional mixed martial arts, and amateur mixed martial arts permits are twenty-five dollars (\$25) per contest, per day. Professional and amateur combined events permit fee is twenty-five dollars (\$25) per contest, per day. Fees for wrestling permits are one hundred fifty dollars (\$150) per contest, per day.

(6) All permit fees are non-refundable.

AUTHORITY: sections 317.006 and 317.011.1, RSMo [2016] Supp. 2018. This rule originally filed as 4 CSR 40-2.021. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 28, 2018, effective Sept. 7, 2018, expires March 5, 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 2150—State Board of Registration for the
Healing Arts
Chapter 5—General Rules**

EMERGENCY AMENDMENT

20 CSR 2150-5.025 Administration of Vaccines Per Protocol. The board is amending all sections of the rule.

PURPOSE: This amendment eliminates unnecessary restrictions/requirements and updates/clarifies requirements for pharmacists immunizing by protocol.

EMERGENCY STATEMENT: Pursuant to section 338.010.7, RSMo the Boards of Healing Arts and Pharmacy are charged with jointly promulgating rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. The purpose of this amendment is to eliminate burdensome/unnecessary rule requirements that reportedly hindered pharmacist immunization activities and decrease patient access to immunization services for the upcoming flu season. Furthermore, this emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. By eliminating duplicate, unnecessary, or burdensome provisions/requirements and geographical restrictions, Missouri citizens will have improved access to care. This increased access is particularly relevant given widespread influenza cases in the state of Missouri and nationwide in recent years. The proposed language in this emergency amendment would

protect the public health, safety, and welfare by ensuring safe and proper medication therapy services and immunization practices while increasing patient access to care. Missouri citizens will benefit from improved continuity of care, improved access, and have more choices on where to receive these services. This emergency rule is limited to medication therapy services and immunizations that pharmacists may administer pursuant to written protocols from a physician. The normal rulemaking process would prevent the elimination of unduly burdensome requirements for six (6) months for the rule change to go through the process, decreasing access to care for Missouri citizens. The board also believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 20, 2018, becomes effective September 30, 2018, and expires March 28, 2019.

(1) A pharmacist may administer vaccines authorized by Chapter 338, RSMo, pursuant to a written protocol [authorized by a physician licensed pursuant to Chapter 334, RSMo,] with a Missouri licensed physician who is actively engaged in the practice of medicine. Unless otherwise restricted by the governing protocol, vaccines may be administered at any Missouri licensed pharmacy or at any non-pharmacy location identified in the governing protocol.

(A) [A pharmacist shall administer v]Vaccines must be administered in accordance with current treatment guidelines established by the Centers for Disease Control (CDC) and [in accordance with] the manufacturer's guidelines, provided [that a pharmacist shall not administer vaccines] CDC guidelines shall control in the event of a conflict. Vaccines may not be administered to persons under twelve (12) years of age unless otherwise authorized by law.

(B) [A p]Pharmacists shall [comply] ensure compliance with all state and federal laws and regulations pertaining to Vaccine Information Statements and informed consent requirements.

(C) Vaccines must be stored in accordance with CDC guidelines/recommendations and within the manufacturer's labeled requirements, including, when vaccinating outside of a pharmacy.

(D) A pharmacist may only delegate vaccine administration to an intern pharmacist who has met the qualifications of subsections (3)(B) and (C) of this rule and is working under the direct supervision of a pharmacist qualified to administer vaccines. Proof of an intern's compliance with subsections (3)(B) and (C) must be maintained by both the supervising pharmacist and the intern pharmacist for a minimum of two (2) years.

[(2) A pharmacist may not delegate the administration of vaccines to another person, except to a pharmacist intern who has met the qualifications under subsections (4)(B), (C), and (D) and is working under the direct supervision of a pharmacist qualified to administer vaccines.]

[(3)](2) The authorizing physician is responsible for the oversight of, and accepts responsibility for, the vaccines administered by the pharmacist.

[(4) Pharmacist Qualifications. A pharmacist who is administering a vaccine authorized by Chapter 338, RSMo, must:

(A) Hold a current, unrestricted license to practice pharmacy in this state;

(B) Hold a current cardiopulmonary resuscitation (CPR) certification issued by the American Heart Association or the American Red Cross or equivalent;

(C) Successfully complete a certificate program in the administration of vaccines accredited by the Accreditation Council for Pharmacy Education (ACPE) or a similar health authority or professional body approved by the State Board of Pharmacy;

(D) Maintain documentation of the above certifications;

(E) Complete a minimum of two (2) hours (0.2 CEU) of continuing education as defined per calendar year related to administration of vaccines. A pharmacist may use the continuing education hours required in this subsection as part of the total continuing education hours required for pharmacist license renewal;

(F) Provide documentation of subsections (A), (B), (C), and (E) of this section to the authorizing physician(s) prior to entering into a protocol or administering vaccines; and

(G) On a yearly basis prior to administering vaccines, establish a new protocol with the authorizing physician and notify the State Board of Pharmacy of their qualifications to do so. This notification shall include the types of drugs being administered and a statement that the pharmacist meets the requirements of subsections (A), (B), (C), (E), and (F) of this section.

(5) Administration by Written Protocol with a Missouri Licensed Physician.

(A) A pharmacist may enter into a written protocol with a physician for the administration of vaccines authorized by Chapter 338, RSMo, provided that a pharmacist shall be prohibited from administering vaccines to patients under twelve (12) years of age. The physician must be no further than fifty (50) miles by road, using the most direct route available, from the pharmacist who is administering the vaccine. The written protocol may be valid for a time period not to exceed one (1) year. The protocol must include the following:

1. The identity of the participating pharmacist and physician, including signatures;
2. Time period of the protocol;
3. The identification of the vaccines which may be administered;
4. The identity of the patient or groups of patients to receive the authorized vaccine(s);
5. The identity of the authorized routes and anatomic sites of administration allowed;
6. A provision to create a prescription for each administration under the authorizing physician's name;
7. A provision establishing a course of action the pharmacist shall follow to address emergency situations including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks;
8. A provision establishing a length of time the pharmacist shall observe an individual for adverse events following an injection;
9. A provision establishing the disposal of used and contaminated supplies;
10. The street addresses of the pharmacy or other locations at which the pharmacist may administer the authorized vaccine;
11. Record-keeping requirements and procedures for notification of administration; and
12. A provision that allows for termination of the protocol at the request of any party to it at any time.

(B) The protocol, and any subsequent amendments or alterations, shall be signed and dated by the pharmacist and authorizing physician prior to its implementation, signifying that both are aware of its content and agree to follow the terms of the protocol. The authorizing physician and pharmacist shall each maintain a copy of the protocol from the beginning of implementation to a minimum of eight (8) years after termination of the protocol.]

(3) Pharmacist Qualifications. Pharmacists administering vaccines by protocol as authorized by Chapter 338, RSMo, must first file a Notification of Intent (NOI) to administer vaccines with the Missouri Board of Pharmacy. To file a NOI, a pharmacist must—

(A) Hold a current Missouri pharmacist license;

(B) Hold a current healthcare provider level cardiopulmonary resuscitation (CPR) or basic life support (BLS) certification issued by the American Heart Association, the American Red Cross, or an equivalent organization. The qualifying BLS or CPR certification program must have included a live in-person skills assessment; and

(C) Have successfully completed a certificate program in administering vaccines accredited by the Accreditation Council for Pharmacy Education (ACPE), provided by an ACPE, or regionally accredited pharmacy or medical school/college or approved by the Board of Pharmacy. The required certificate program must include a live/in-person training component and include instruction in:

1. Current CDC guidelines and recommendations for vaccines authorized by Chapter 338, RSMo, including, recommended immunization schedules;

2. Basic immunology and vaccine protection;

3. Physiology and techniques for vaccine administration, including, hands-on training in intramuscular, intradermal, subcutaneous and nasal administration routes, and other common routes of vaccine administration;

4. Pre- and post- vaccine screening or assessment; and

5. Identifying and treating adverse immunization reactions;

(D) Notifications of Intent must be filed on the board's website or on a form approved by the board.

(4) Protocol Requirements—

(A) In addition to filing a NOI, pharmacists administering vaccines under this rule must first enter into a written protocol with a Missouri licensed physician. The written protocol may be valid for a time period not to exceed one (1) year. The protocol must be renewed annually and include the following:

1. The identity of the participating pharmacist and physician;

2. Time period of the protocol;

3. Authorized vaccines;

4. The patient or groups of patients authorized for vaccination;

5. Allowed routes and anatomic sites of administration;

6. If applicable, authorization to create a prescription for each administration under the physician's name;

7. Emergency response procedures, including, but not limited to, procedures for handling/addressing adverse reactions, anaphylactic reactions, and accidental needle sticks;

8. The length of time the pharmacist must observe an individual for adverse events following an injection;

9. Procedures for disposing of used and contaminated supplies;

10. The street addresses of any non-pharmacy locations at which the pharmacist may administer vaccines;

11. Record-keeping requirements and any required notification procedures; and

12. A provision allowing termination of the protocol at any time at the request of any party.

(B) The protocol, and any subsequent amendments or alterations, must be reviewed and manually or electronically signed and dated by the pharmacist and authorizing physician prior to its implementation, signifying that both are aware of its contents and agree to follow the terms of the protocol. A copy of the protocol must be maintained by both the pharmacist and the authorizing physician for a minimum of eight (8) years after termination of the protocol.

(C) Additional pharmacists or immunization locations may be added to an existing protocol if the amendment is signed and dated by the authorizing physician(s) and, if applicable, any newly added pharmacist(s). Existing pharmacists are not required to re-sign the protocol unless other protocol terms or provisions are changed.

[(6)](5) Record Keeping.

(A) *[A pharmacist administering vaccines pursuant to this rule shall maintain a record of each administration which shall include] The pharmacist shall ensure a record is maintained for each vaccine administered by protocol that includes:*

1. The **patient's** name, address, and date of birth *[of the patient];*
2. The date, route, and anatomic site of the administration;
3. The **vaccine's** name, dose, manufacturer, lot number, and expiration date *[of the vaccine];*
4. The name and address of the patient's primary health care provider, *[as identified] if provided* by the patient;
5. The *[name or identifiable initials] identity* of the administering pharmacist **or, if applicable, the identity of the administering intern pharmacist and supervising pharmacist;** and
6. The nature of *[an] any* adverse reaction and who was notified, if applicable.

[(B) If the vaccine was administered on behalf of a pharmacy, the pharmacist shall ensure the records required by subsection (6)(A) of this rule are promptly delivered to the pharmacy.]

[(C)](B) Within seventy-two (72) hours after [administration of] a vaccine is administered, [the administering pharmacist shall obtain] a prescription must be obtained from the authorizing physician for the drug dispensed or [shall create a prescription, as authorized by protocol documenting the dispensing of the drug] a prescription must be created in the physician's name documenting the dispensing as authorized by protocol. Notwithstanding any other provision of this rule, prescription records [shall] must be maintained as provided by Chapter 338, RSMo, and the rules of the board.

[(D)](C) The records required by this rule [shall be maintained] must be securely and confidentially maintained as follows:

1. If the vaccine is administered on behalf of a pharmacy, both the pharmacy and the administering pharmacist shall ensure *[that all records required by this rule are maintained at the pharmacy] the records required by subsection (5)(A) are promptly delivered to and maintained at the pharmacy* separate from the pharmacy's prescription files *[of the pharmacy];*
2. If the vaccine is not *[being] administered* on behalf of a pharmacy, *[all records shall be maintained securely and confidentially by the administering pharmacist] records must be maintained by the administering or supervising pharmacist* at an address *[that shall be] identified* in the protocol prior to administering the vaccine; *[and]*

3. Prescription records must be maintained as required by Chapter 338, RSMo, and the rules of the board; and

[2.]4. Records [shall] required by this rule must be maintained for two (2) years [from the date of such record and shall be] and made available for inspecting and copying by the State Board of Pharmacy or the State Board of Registration for the Healing Arts and/or their authorized representatives. Records maintained at a pharmacy must be produced during an inspection by the board and/or their authorized representatives. Records not maintained at a pharmacy [shall] must be produced within three (3) business days after a request from the State Board of Pharmacy or the State Board of Registration for the Healing Arts and/or [its] their authorized representatives. Failure to maintain or produce records as provided by this rule shall constitute grounds for discipline.

[(7) Notification Requirement.

(A) *A pharmacist administering vaccines authorized by Chapter 338, RSMo, shall notify the authorizing physician within seventy-two (72) hours after administration of the following:*

1. *The identity of the patient;*
2. *The identity of the vaccine(s) administered;*
3. *The route of administration;*
4. *The anatomic site of the administration;*

5. *The dose administered; and*
6. *The date of administration.*

(B) *The pharmacist shall provide a written report to the patient's primary health care provider, if different than the authorizing physician, containing the documentation required in subsection (A) of this section within fourteen (14) days of the administration.*

(C) *In the event of any adverse event or reaction experienced by the patient pursuant to a written protocol, the pharmacist shall notify the patient's primary health care provider and authorizing physician, if different, within twenty-four (24) hours after learning of the adverse event or reaction.*

(D) *A pharmacist administering vaccine(s) shall report the administration to all entities as required by state or federal law.*

(E) *Documentation that notifications required by this rule have been sent must be maintained as provided in section (6) of this rule.]*

(6) Notification of Immunizations. Pharmacists immunizing by protocol must—

(A) **Notify all persons or entities as required by state and federal law;**

(B) **Notify the protocol physician as required by the governing protocol;**

(C) **Notify the patient's primary care provider as required by Chapter 338, RSMo; and**

(D) **Notify the patient's primary health care provider and, if different, the protocol physician, within twenty-four (24) hours after learning of any adverse event or reaction experienced by the patient. Adverse events or reactions must also be reported to the Vaccine Adverse Event Reporting System (VAERS) or its successor, within thirty (30) days.**

(E) **Unless otherwise provided by the governing protocol, notification may be made via a common electronic medication record that is accessible to and shared by both the physician and pharmacist. Proof of notification must be maintained in the pharmacist's records as provided in subsection (5)(C) of this rule.**

(7) Notification of Intent Renewal. A Notification of Intent (NOI) to immunize by protocol must be renewed biennially with the immunizing pharmacist's Missouri pharmacist license. To renew a NOI, pharmacists must—

(A) **Have a current healthcare provider cardiopulmonary resuscitation (CPR) or basic life support (BLS) certification that complies with subsection (3)(B) of this rule; and**

(B) **Have completed a minimum of two (2) hours of continuing education (0.2 CEU) related to administering vaccines or CDC immunization guidelines in a course approved by the Board of Pharmacy or provided by an ACPE accredited continuing education provider within the applicable pharmacist biennial renewal period (November 1 to October 31 of the immediately preceding even numbered years).**

(C) **The required continuing education (CE) shall be governed by 20 CSR 2220-7.080 and may be used to satisfy the pharmacist's biennial continuing education requirements. The initial training program required by section (3) of this rule may be used to satisfy the CE requirements of this subsection if the training program was completed within the applicable pharmacist biennial renewal cycle.**

AUTHORITY: section 334.125, [RSMo 2000 and sections] 338.010, and 338.220, RSMo [Supp. 2009] 2016. Emergency rule filed Oct. 24, 2007, effective Nov. 3, 2007, expired April 30, 2008. Original rule filed Oct. 24, 2007, effective May 30, 2008. Emergency amendment filed Oct. 22, 2009, effective Nov. 1, 2009, expired April 29, 2010. Amended: Filed Oct. 22, 2009, effective June 30, 2010. Emergency amendment filed Aug. 20, 2018, effective Sept. 30, 2018,

expires March 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 2220—State Board of Pharmacy
Chapter 2—General Rules**

EMERGENCY AMENDMENT

20 CSR 2220-2.200 Sterile Compounding. The board is amending sections (9) and (20) of the rule.

PURPOSE: This board is amending sections (9) and (20) of this rule to clarify the requirements for in-use times/beyond-use dating and remedial investigations as the result of environmental monitoring.

EMERGENCY STATEMENT: This emergency amendment is being promulgated to protect the lives of Missouri citizens by ensuring the continued availability and supply of radiopharmaceuticals and sterile compounding services in this state. Specifically, the rule currently requires sterile compounding pharmacies to immediately terminate sterile compounding if an environmental monitoring sample/test demonstrates results that exceed the United States Pharmacopeia's Chapter 797 action levels, or if a highly pathogenic microorganism is detected in designated ISO classified areas. Sterile compounding is the act of compounding a drug that must be sterile and free of harmful microorganisms prior to administration to a patient. Sterile compounding requires the use of aseptic technique in a properly controlled aseptic environment to eliminate the risk of preparation contamination.

In May 2018, the board received correspondence from Truman Medical Center, St. Luke's Medical Center, Kansas University Medical Center, and other sterile compounding pharmacies indicating the board's rule was detrimentally and significantly impacting patient care by forcing pharmacies to immediately terminate sterile compounding activities in the event of an identified testing result. Licensees contended the requirement unnecessarily impedes patient care by forcing the complete shutdown of compounding activities even if test results are minor, show no risk of patient harm, or can be easily remedied. In some instances, patients were reportedly denied treatment pending receipt of testing results which could take multiple days. Other sterile compounding pharmacies indicated being forced to suspend needed compounding services to Missouri hospitals, health care facilities, and other medical providers with little or no notice. Significantly, some of these compounded medications may be needed for emergency patient care and/or may not be available from another pharmacy equipped to provide specialized sterile compounding services within a medically appropriate timeframe.

In February 2018, the board was also petitioned by Missouri nuclear pharmacies to amend the rule to prevent interruptions of nuclear pharmacy services. Nuclear pharmacy routinely involves the preparation of radiopharmaceutical kits which generally include a vial containing non-radionuclide components of a radiopharmaceutical preparation "to which the appropriate radionuclide is added or in which the appropriate radionuclide is diluted before medical use." In many instances, the kit contains a multi-dose vial of an ingredient(s) that is used to compound multiple preparations during a work shift that are normally intended for patient use within a short timeframe (e.g., 12 hours after preparation).

In 2016, the board amended its rule to provide single dose and pharmacy bulk ingredient vials/containers may not be used beyond the assigned in-use time which is limited to six (6) hours, unless authorized by the manufacturer. During board inspections in the fall of 2017 and early 2018, the board discovered several nuclear pharmacies were non-compliant with the six (6) hour requirement after

misconstruing the requirement to be inapplicable to nuclear practice. In February 2018, board inspectors communicated the board's determination that compliance with the six- (6-) hour time limitation was applicable to all pharmacies and would be enforced. Multiple Missouri nuclear pharmacies subsequently petitioned the board to amend the rule to protect patients and ensure availability of nuclear medications throughout the state.

Specifically, licensees reported most nuclear kits/ingredients are continuously used during the day to ensure sufficient supplies are available for shipment throughout the state when a product is needed or requested. Licensees reported the rule would require them to limit production of nuclear products to comply with the six- (6-) hour requirement which would detrimentally and significantly impact patient health and safety by reducing the available supply of nuclear medication for Missouri patients. This reduction is particularly significant given the specialized nature of these products and the limited number of pharmacies qualified/equipped to compound radiopharmaceuticals in the state. Patients in rural areas would be disproportionately impacted given many of these communities do not have a nuclear pharmacy within close proximity. In some instances, these products may be needed for use in urgent/emergency care. Significantly, licensees suggested the six- (6-) hour in-use time was unnecessary for nuclear medications due to the short beyond-use date assigned to these products because of their quick radioactive decay.

The board subsequently convened a Sterile Compounding Subcommittee in April 2018 to prepare draft language. The board also met with the Board's Nuclear Pharmacy Working Group from February to June 2018 to develop language to accommodate all practice settings and to review data regarding the stability of radiopharmaceutical products in the event of an extended in-use time.

Based on the comments and board research, the board determined an emergency rule amendment was needed to protect the lives of Missouri citizens by ensuring the continued availability of nuclear pharmacy and compounding services for Missouri's patients, hospitals, healthcare facilities, and other healthcare providers. Absent an emergency amendment, the Missouri drug supply would be significantly and detrimentally impacted, including, the availability of medication for emergency use. As a result, the Missouri State Board of Pharmacy finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Missouri State Board of Pharmacy believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 20, 2018, becomes effective August 30, 2018, and expires February 28, 2019.

(9) Aseptic Technique and Preparation. Appropriate quality control methods shall be maintained over compounding methods at all times to ensure proper aseptic technique.

(D) Single-dose vials/containers and pharmacy bulk vial/containers exposed to ISO Class 5 or cleaner air may be used in compounding until the assigned in-use time which shall not exceed six (6) hours after initial needle puncture, unless otherwise specified by the manufacturer. Opened single-dose ampules shall not be stored for any time period. The in-use time must be placed on the vial/container. **For multiple-dose vials/containers with no antimicrobial preservative used in the preparation of radiopharmaceuticals whose beyond-use dates are twenty-four (24) hours or less, the in-use time shall not exceed twenty-four (24) hours.**

[(20) Remedial Investigations: A remedial investigation shall be required if: 1) any sampling or testing required by this rule demonstrates a colony forming unit (CFU) count that exceeds USP Chapter 797 recommended action levels for

the type of sampling/testing and/or 2) if a highly pathogenic microorganism is detected in any preparation or ISO classified area (e.g., Gram-negative rods, coagulase positive staphylococcus, molds, fungus, or yeasts).

(A) CSPs and any ingredients used within the compounding process that are part of the remedial investigation shall be quarantined until the results of the investigation are known. All affected areas shall be resampled to ensure a suitable state of microbial control as part of the remedial investigation. If a highly pathogenic microorganism is detected, or if the CFU count exceeds USP 797 action levels in any ISO-5 or ISO-7 classified area, no further compounding shall be performed until resampling shows a suitable state of microbial control. The pharmacy shall ensure that no misbranded, contaminated, or adulterated CSP is administered or dispensed for patient use.

(B) The pharmacy shall notify the board in writing within seven (7) days if any preparation or environmental monitoring/testing detects a highly pathogenic microorganism, regardless of CFU count.]

(20) Remedial Investigations. A remedial investigation shall be required if any environmental monitoring sample demonstrates a colony forming unit (CFU) count that exceeds USP Chapter 797 recommended action levels for the type of sampling. A remedial investigation shall include resampling of all affected areas to ensure a suitable state of microbial control. CSPs and any ingredients used within the compounding process that are part of the remedial investigation shall be quarantined until the results of the investigation are known. The pharmacy shall ensure that no misbranded, contaminated, or adulterated CSP is administered or dispensed for patient use.

(A) If an environmental monitoring sample taken from an ISO-5 classified area exceeds USP 797 action levels, the pharmacy must cease compounding in the affected ISO classified area until resampling shows a suitable state of microbial control has been achieved in the affected area. However, a pharmacy may continue to compound during the remedial investigation if—

1. The affected ISO classified area is cleaned and disinfected by using a germicidal cleaning agent and a sporicidal agent followed by sterile alcohol;

2. The beyond-use date assigned to all preparations is no greater than twelve (12) hours; and

3. The affected ISO classified area is resampled under dynamic conditions. If the resampling exceeds USP Chapter 797 action levels, compounding must cease until resampling shows a suitable state of microbial control has been achieved in the affected area, unless otherwise authorized by the board or board's authorized designee to continue compounding upon a showing the facility can be operated in a manner not to endanger the public safety.

(B) If an environmental monitoring sample taken from an ISO-7 classified buffer area exceeds USP 797 action levels, the pharmacy must cease compounding in the affected ISO classified buffer area until resampling shows a suitable state of microbial control has been achieved in the affected area. However, a pharmacy may continue to compound during the remedial investigation if—

1. The affected ISO classified area is cleaned and disinfected by using a germicidal cleaning agent and a sporicidal agent;

2. The beyond-use date assigned to Risk Level 1 preparations is not greater than twenty-four (24) hours or, for Risk level 2 and 3 preparations, no greater than twelve (12) hours; and

3. The affected ISO classified area is resampled under dynamic conditions. If two (2) consecutive resamplings exceed USP 797 action levels, compounding must cease until resampling shows a suitable state of microbial control has been achieved in the affected area, unless otherwise authorized by the board or board's authorized designee to continue compounding upon a

showing the facility can be operated in a manner not to endanger the public health or safety.

(C) The pharmacy shall notify the board in writing within three (3) days of any environmental monitoring sample collected as part of a remedial investigation that exceeds USP 797 action levels.

AUTHORITY: sections 338.010, 338.140, 338.240, and 338.280, RSMo [Supp.] 2016. This rule originally filed as 4 CSR 220-2.200. Original rule filed May 4, 1992, effective Feb. 26, 1993. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 20, 2018, effective Aug. 30, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo 2016.

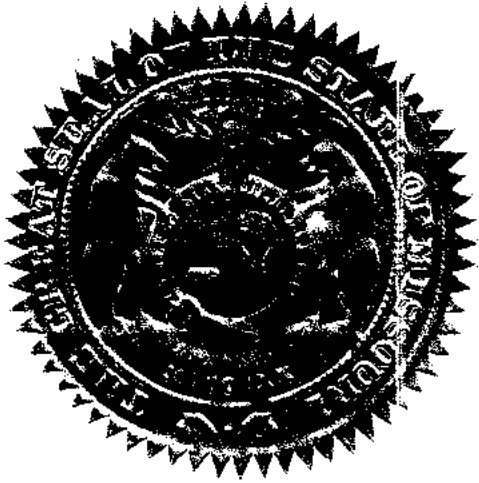
EXECUTIVE ORDER 18-06

WHEREAS, Section 105.454(5), RSMo, requires the Governor to designate those members of his staff who have supervisory authority over each department, division, or agency of state government for purposes of the application of such subdivision.

NOW THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby designate the following members of my staff as having supervisory authority over the following departments, divisions, or agencies of state government for the purposes of Section 105.454(5), RSMo:

Office of Administration	Christopher K. Limbaugh
Department of Agriculture	Kayla Hahn
Department of Conservation	Kayla Hahn
Department of Corrections	Jeff Earl
Department of Economic Development	Aaron Willard
Department of Elementary and Secondary Education	Robert Knodell
Department of Health and Senior Services	Justin Alferman
Department of Higher Education	Robert Knodell
Department of Insurance, Financial Institutions and Professional Registration	Justin Alferman
Department of Labor and Industrial Relations	Justin Alferman
Department of Mental Health	Justin Alferman
Department of Natural Resources	Christopher K. Limbaugh
Department of Public Safety	Christopher K. Limbaugh
Department of Revenue	Justin Alferman
Department of Social Services	Justin Alferman
Department of Transportation	Aaron Willard
Missouri Housing Development Commission	Robert Knodell
Boards Assigned to the Governor	Robert Knodell
Unassigned Boards and Commissions	Kyle Aubuchon

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 21st day of August, 2018.



Michael L. Parson
Governor

John R. Ashcroft
Secretary of State



State of Missouri
Governor's Proclamation

WHEREAS, it has become increasingly important for students to be equipped with the knowledge and skills to solve tough problems, gather and evaluate evidence, and make sense of complex information, which can be learned by studying science, technology, engineering, and math, collectively known as STEM; and

WHEREAS, not enough students are pursuing careers in STEM fields and not enough teachers are equipped to educate students in those subjects; and

WHEREAS, computer science is quickly becoming a vital subject area, as most careers require some level of computer science knowledge; and

WHEREAS, allowing a computer science course to fulfill an academic credit requirement for graduation would allow more students to learn valuable technology skills and better equip them for postsecondary education or the workforce; and

WHEREAS, treatment courts, as an alternative for the judicial system to resolve cases that stem from substance use disorders, are a proven, cost-effective method for reducing recidivism of criminal offenders; and

WHEREAS, treatment courts ensure that participants get the treatment services they need, while requiring them to meet certain goals such as gaining employment or getting an education; and

WHEREAS, Article IV, Section 9 of the Missouri Constitution authorizes the Governor on extraordinary occasions to convene the General Assembly by proclamation, wherein he shall state specifically each matter on which action is deemed necessary; and

WHEREAS, the need for the establishment of the "STEM Career Awareness Program", students to be able to fulfill one unit of academic credit with a computer science course, and treatment court reform are extraordinary occasions envisioned by Article IV, Section 9 of the Missouri Constitution.

NOW THEREFORE, on the extraordinary occasion that exists in the State of Missouri:

I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, pursuant to the authority vested in me as Governor by the Constitution of the State of Missouri, do, by this Proclamation, convene the Ninety-Ninth General Assembly of the State of Missouri in the First Extra Session of the Second Regular Session, and

HEREBY call upon the Senators and Representatives of said General Assembly to meet in the State Capitol in the City of Jefferson at the hour of 12:00 p.m. on Monday, September 10, 2018; and

HEREBY state that the action of said General Assembly is deemed necessary concerning each matter specifically designated and limited hereinafter as follows:

1. To enact legislation requiring the Department of Elementary and Secondary Education to establish a statewide program to be known as the "STEM Career Awareness Program" to increase STEM career awareness among students in grades six through eight through the use of an online-based STEM curriculum and to develop a high school graduation policy that allows a student to fulfill one unit of academic credit with a district-approved computer science course meeting standards adopted by the State Board of Education for any mathematics, science, or practical arts unit required for high school graduation.
2. To enact legislation implementing comprehensive reforms to existing drug court programs, including authorizing the establishment of treatment court divisions in any judicial circuit in the state to provide an alternative for the judicial system to dispose of cases that stem from, or are otherwise impacted by, substance use disorders. Treatment courts shall include, but not be limited to, adult treatment courts, DWI courts, family treatment courts, juvenile treatment courts, and veterans treatment courts. Such legislation shall also include reforms to the current Drug Courts Coordinating Commission, renaming it the "Treatment Courts Coordinating Commission" and requiring it to establish standards and practices for treatment courts throughout the state.

3. To allow the Senate to consider appointments to boards, commissions, departments, and divisions that require the advice and consent of the Senate.
4. Such additional and other matters as may be recommended by the Governor by special message to the General Assembly after it shall have been convened

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 4th day of September 2018.



Michael L. Dawson
GOVERNOR

ATTEST:

SECRETARY OF STATE