

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

Chapter 36, RSMo. In addition, it is the duty of the division to—
[(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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

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

PROPOSED 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).

(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,

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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

1 CSR 20-1.020 Definitions. The board is amending the rule purpose, 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.

(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 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 at 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 promo-*

tional 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; **and**

[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 consider-

ation for certification and appointment to a position and a request for future consideration.]

(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 by federal statute or regulation, 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. The term shall also include 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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED RESCISSION

1 CSR 20-1.030 Personnel Rules. This rule stated the general purpose of the rules of the Personnel Advisory Board and Personnel Division and provided for amendment and compliance.

PURPOSE: This rule is being rescinded because it is largely duplicative of provisions of Chapters 36 and 536, RSMo.

AUTHORITY: 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. Rescinded: Filed Aug. 31, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies

or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

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

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.

[(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 work force; 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 provided 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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

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

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.

(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 geo-

graphic 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 practical 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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED RESCISSION

1 CSR 20-1.050 Records and Reports. This rule prescribed the confidentiality of certain records and specified the form in which reports or personnel changes were to be made.

PURPOSE: This rule is being rescinded because its two (2) sections have been moved to other rules in this division.

AUTHORITY: section 36.070, RSMo 1986. Original rule filed July 9, 1947, effective July 19, 1947. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

1 CSR 20-2.010 The Classification Plan. The board is deleting section (1), renumbering thereafter, 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).

[(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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

1 CSR 20-2.015 Broad Classification Bands [for Managers]. The board is amending sections (1)–(3) and (6), deleting existing sections (4) and (5), renumbering as necessary, amending the title and purpose statement.

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.

(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, [A]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 employ-

ees, 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 certification 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 lay-off 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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED 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).

[(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 accordance 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.

[(5) 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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED 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).

[(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 exami-

nations 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, practicability 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 examina-

tions, 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 training 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.* In any competitive examination, [T]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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED 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).

(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. Amended: Filed Aug. 31, 2018.

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

PROPOSED AMENDMENT

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

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

[(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 promotional 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 autho-

ized 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 appointing 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 employee 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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

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

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.

(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] 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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED 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.

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. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which

is thirty-five (35) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED 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).

(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** //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) **The employee** /H/has *[been guilty of]* 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) **The employee** /H/has *[been guilty of a]* 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) **The employee** /H/has *[been guilty of]* 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 Administrative Hearing 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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED 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).

[(1) Influences other than merit are prohibited in examina-

tions 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 person 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. Amended: Filed Aug. 31, 2018.

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

PRIVATE COST: This proposed amendment will not cost private enti-

ties more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED RESCISSION

1 CSR 20-4.010 Appeals. This rule prescribed 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.

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. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED 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).

(1) Prohibited Grievance Procedures.

(A) No state agency may establish a grievance procedure permitting a state employee, including a part-time employee other than a regular employee, to grieve—

1. Any of the following, however any of the same may be denominated, imposed by an appointing authority or anyone acting on the appointing authority's behalf:

- A. Discipline;
- B. Suspension;
- C. Demotion;
- D. Notice of unacceptable conduct or conditional employment;

- E. Leave denial;
- F. Transfer;
- G. Shift change;
- H. Reprimand;
- I. Furlough; or

J. Any employment action that could be alleged to have an adverse financial impact on a state employee.

(B) No state agency may enter into an agreement with a certified bargaining unit providing for the same or any alternative dispute resolution procedure regarding the matters prohibited in subsection (1)(A).

(C) The foregoing prohibitions shall not apply to grievance procedures that allow for the presentation of allegations that one (1) of the types of employment actions described in subsection (1)(A) 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. Amended: Filed Aug. 31, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, November 5, 2018, which is thirty-five (35) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, November 5, 2018, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management, Design
and Construction
Chapter 2—Capital Improvement and Maintenance
Budget**

PROPOSED RESCISSION

1 CSR 30-2.020 Definitions. This rule defined terms and definitions of those terms, as used in the rules under this chapter for the Capital Improvement and Maintenance Budget.

PURPOSE: This rule is being rescinded because information contained in this rule will be included with the annual budget instructions from the Division of Budget and Planning within the Office of Administration.

AUTHORITY: sections 8.320, 8.360, and 33.220, RSMo 2000. Original rule filed July 9, 1981, effective Feb. 15, 1982. Emergency amendment filed June 14, 1985, effective July 1, 1985, expired Oct. 29, 1985. Amended: Filed June 14, 1985, effective Aug. 26, 1985. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management, Design
and Construction
Chapter 2—Capital Improvement and Maintenance
Budget**

PROPOSED RESCISSION

1 CSR 30-2.030 Assessment Program Planning. This rule established requirements and provided guidance for the assessment programs which are utilized for Capital Improvement and Maintenance funding.

PURPOSE: This rule is being rescinded because information contained in this rule will be included with the annual budget instructions from the Division of Budget and Planning within the Office of Administration.

AUTHORITY: sections 8.320, 8.330, 8.360, and 33.220, RSMo 2000. Original rule filed July 9, 1981, effective Feb. 15, 1982. Emergency amendment filed June 14, 1985, effective July 1, 1985, expired Oct. 29, 1985. Amended: Filed June 14, 1985, effective Aug. 26, 1985. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management, Design
and Construction
Chapter 2—Capital Improvement and Maintenance
Budget**

PROPOSED RESCISSION

1 CSR 30-2.040 Budget Preparation. This rule established requirements, organization and content for the Capital Improvement and Maintenance Budget submission.

PURPOSE: This rule is being rescinded because information contained in this rule will be included with the annual budget instructions from the Division of Budget and Planning within the Office of Administration.

AUTHORITY: sections 8.320, 8.360, and 33.220, RSMo 2000. Original rule filed July 9, 1981, effective Feb. 15, 1982. Emergency amendment filed June 14, 1985, effective July 1, 1985, expired Oct. 29, 1985. Amended: Filed June 14, 1985, effective Aug. 26, 1985. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management, Design
and Construction
Chapter 2—Capital Improvement and Maintenance
Budget

PROPOSED RESCISSION

1 CSR 30-2.050 Budget Form Completion and Submission. This rule set forth the format for completing the Capital Improvement and Maintenance Budget Forms.

PURPOSE: This rule is being rescinded because information contained in this rule will be included with the annual budget instructions from the Division of Budget and Planning within the Office of Administration.

AUTHORITY: sections 8.320 and 8.360, RSMo Supp. 2014, and section 33.220, RSMo 2000. Original rule filed July 9, 1981, effective Feb. 15, 1982. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management, Design
and Construction
Chapter 3—Capital Improvement and Maintenance
Program

PROPOSED RESCISSION

1 CSR 30-3.010 Rule Objectives and Definitions. This rule stated the objectives of the rules of the Office of Administration and defined terms used in the rules under this chapter for implementing the Capital Improvement and Maintenance Program as established by appropriations.

PURPOSE: This rule is being rescinded since the rule contains objectives and definitions that are unnecessary.

AUTHORITY: sections 8.310 and 8.320, RSMo 2000. Original rule filed July 9, 1981, effective Feb. 15, 1982. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in

support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management, Design
and Construction
Chapter 3—Capital Improvement and Maintenance
Program

PROPOSED RESCISSION

1 CSR 30-3.020 Project Definition and Fund Allocation. This rule set forth the procedures and methods for defining projects and for determining fund allocation from state appropriations.

PURPOSE: This rule is being rescinded because it is redundant, outdated and unnecessary. References to fund allocation and budget items will be included in the annual budget instructions thus making this rule unnecessary.

AUTHORITY: sections 8.310 and 8.320, RSMo 2000. Original rule filed July 9, 1981, effective Feb. 15, 1982. Emergency amendment filed June 14, 1985, effective July 1, 1985, expired Oct. 29, 1985. Amended: Filed June 14, 1985, effective Aug. 26, 1985. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management, Design
and Construction
Chapter 3—Capital Improvement and Maintenance
Program

PROPOSED RESCISSION

1 CSR 30-3.035 Project Selection/Bidding Methods. This rule established the methods by which design consultants, project/construction managers and contractors are selected.

PURPOSE: This rule is being rescinded because the information is redundant, can be found elsewhere, or is unnecessary.

AUTHORITY: section 8.291, RSMo Supp. 2007. Original rule filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Aug. 31, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies

or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management, Design and Construction
Chapter 4—Facility Maintenance and Operation

PROPOSED RESCISSION

1 CSR 30-4.010 Objectives and Definitions. This rule stated the objectives of these rules and defined terms used in the rules under this chapter pertaining to the maintenance and operation of state-owned facilities.

PURPOSE: This rule is being rescinded because the objectives identified in this rule provide minimal benefit to state employees or the public and are self-explanatory. In addition, the definitions are contained in subsequent rules in the chapter.

AUTHORITY: sections 8.320 and 8.360, RSMo 2000 and subsections 6 and 7 of section 15, 1974 Reorganization Act. Original rule filed July 9, 1982, effective Nov. 15, 1982. Amended: Filed Nov. 30, 1993, effective July 10, 1994. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Aug. 31, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 1—Wildlife Code: Organization

PROPOSED AMENDMENT

3 CSR 10-1.010 Organization and Methods of Operation. The commission proposes to amend section (2) of this rule.

PURPOSE: This amendment clarifies the internal organization of the Department of Conservation.

(2) The commission appoints a director who serves as the administrative officer of the Department of Conservation. The director appoints other employees. [Three (3) d/Deputy directors, general

counsel, assistants to the director, and internal auditor are responsible to the director and facilitate administration of the department. Programs and activities are carried out by [the divisions of] administrative services, design and development, fisheries, forestry, human resources, outreach and education, private land services, protection, resource science, wildlife [and units of] divisions, policy coordination, and information technology units.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 28, 1974, effective July 8, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions

PROPOSED AMENDMENT

3 CSR 10-4.200 Chronic Wasting Disease; Management Zone. The commission proposes to amend section (1) of this rule.

PURPOSE: This amendment clarifies that only designated counties within twenty-five (25) miles of a confirmed positive will be included in the chronic wasting disease management zone.

(1) For purposes of this section, a Chronic Wasting Disease (CWD) Management Zone will consist of [all] designated counties within twenty-five (25) miles of a confirmed Chronic Wasting Disease-positive test result for any cervid. See the current *Fall Deer & Turkey Hunting Regulations and Information* booklet, hereby incorporated in this Code by reference for designated counties. This booklet is published annually in August by, and a printed copy can be obtained from, the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and is also available online at www.missouriconservation.org. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Dec. 15, 2015, effective May 30, 2016. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with

Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits

PROPOSED AMENDMENT

3 CSR 10-5.205 Permits Required; Exceptions. The commission proposes to amend subsections (1)(A) and (1)(F), add a new subsection (1)(G), and re-letter subsequent subsections of this rule.

PURPOSE: This amendment simplifies the Wildlife Code by eliminating unnecessary verbiage. Due to confusion regarding eligibility for no-cost permits and challenges faced with enforcement of the current regulation, the Department of Conservation will no longer offer lessees the same privileges as landowners. It also exempts adults in possession of a valid hunter education certificate card, or who were born before January 1, 1967, from permit requirements when accompanying a properly licensed youth deer or turkey hunter during the youth portions of the firearms deer hunting season and the spring youth turkey hunting season.

(1) Any person who chases, pursues, takes, transports, ships, buys, sells, possesses, or uses wildlife in any manner must first obtain the prescribed hunting, fishing, trapping, or other permit, or be exempted under 3 CSR 10-9.110, with the following exceptions:

(A) A resident landowner [or lessee], as defined in this Code, may hunt, trap, or fish as prescribed in Chapters 6, 7, and 8 without permit (except landowner deer and turkey hunting permits, Migratory Bird Hunting Permit, and Conservation Order Permit as prescribed), but only on land s/he owns [or, in the case of the lessee, upon which s/he resides,] and may transport and possess wildlife so taken;

(F) Any person at least six (6) but not older than fifteen (15) years of age may purchase Deer and Turkey Hunting Permits without display of a hunter education certificate card. **Except as provided in subsection (1)(G) of this rule,** /S/such person must hunt in the immediate presence of a properly licensed adult hunter who is eighteen (18) years of age or older and has in his/her possession a valid hunter education certificate card or was born before January 1, 1967;

(G) During the youth portions of the firearms deer hunting season and the youth spring turkey hunting season, youth hunters purchasing permits as provided in subsection (1)(F) must hunt in the immediate presence of an adult who is eighteen (18) years of age or older and has in his/her possession a valid hunter education certificate card or was born before January 1, 1967. Any adult meeting these requirements may accompany youth deer or turkey hunters as prescribed in this subsection without a permit;

/(G)/(H) Any resident of Missouri fifteen (15) years of age or younger may take wildlife as provided in Chapter 8 without permit, except for cable restraint device requirements in rule 3 CSR 10-8.510 subsection (4)(B);

/(H)/(I) Any person born on or after January 1, 1967, and at least sixteen (16) years of age and who does not possess a valid hunter education certificate card may purchase an Apprentice Hunter Authorization for no more than two (2) permit years (March 1 through the last day of February). The Apprentice Hunter Authorization allows the holder to purchase any firearms hunting permit as provided in this chapter without display of a hunter education certificate card. Such person must hunt in the immediate presence of a properly licensed adult hunter who is eighteen (18) years of age or older and who has in his/her possession a valid hunter edu-

cation certificate card or was born before January 1, 1967;

/(I)/(J) Any resident of Missouri with a developmental disability as defined in section 630.005, RSMo, born on or after January 1, 1967, and at least sixteen (16) years of age who has taken the Hunter Education Certification Course may purchase any firearms hunting permit as provided in this chapter without display of a valid hunter education certificate card, provided s/he carries a physician's statement provided by the department and signed by a licensed physician qualified to evaluate and treat the condition described and certifies the person has this disability. Such person must hunt in the immediate presence of a properly licensed adult hunter who is eighteen (18) years of age or older and who has in his/her possession a valid hunter education certificate card or was born before January 1, 1967. Printed copies of the physician's statement form can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at www.missouriconservation.org;

/(J)/(K) Any hospital patient may fish without permit on the grounds of the hospital where under treatment;

/(K)/(L) The director may issue special fishing permits for specified dates without cost to supervised groups involved in rehabilitation programs or groups of hospital patients or persons with disabilities under therapy;

/(L)/(M) The director may issue special fishing permits authorizing persons assigned as trainees to a training or rehabilitation unit performing organized conservation or agricultural work under governmental supervision on federal, state, county, or municipal lands to take fish by gig and pole and line methods and to take frogs by fishing methods on the public lands where such conservation or agricultural work is being performed, under regulations applicable to the area. Any person while exercising such privileges shall carry identification, issued by the training agency, showing current assignment to the training or rehabilitation unit;

/(M)/(N) For educational purposes, the director may waive fishing permit or tag requirements for specified periods at specified sites and may authorize fishing in restricted waters;

/(N)/(O) Any resident of Missouri having a visual acuity not exceeding twenty/two hundred (20/200) in the better eye with maximum correction, or having twenty degrees (20°) or less field of visual concentric contraction, and any resident who is so severely and permanently disabled as to be unable to move freely without the aid of a wheelchair, may take fish, live bait, clams, mussels, turtles, and frogs as provided in Chapter 6 without permit (except trout permit or daily tag in areas where prescribed); provided, while fishing, s/he carries a certified statement of eligibility from a licensed ophthalmologist or optometrist or from a licensed physician;

/(O)/(P) Any resident of Missouri with cerebral palsy or a mental disorder or a mental illness as defined in section 630.005, RSMo, and who is so severely disabled that s/he cannot fish alone, may take fish, live bait, clams, mussels, turtles, and frogs as provided in Chapter 6 without permit (except trout permit or daily tag in areas where prescribed); provided, while fishing, s/he is accompanied by a licensed adult fisherman and possesses a certified statement of eligibility from a licensed physician qualified to evaluate and treat the developmentally disabled;

/(P)/(Q) Any honorably discharged military veteran having a service-related disability of sixty percent (60%) or greater, or who was a prisoner of war during military service, or any member of the U.S. military currently assigned as a patient to a Warrior Transition Brigade, Warrior Transition Unit, or a military medical center, may take fish, live bait, clams, mussels, turtles, and frogs as provided in Chapter 6 without permit (except trout permit or daily tag in areas where prescribed), and may take wildlife as provided in Chapter 7 without permit (except deer and turkey hunting permits, Migratory Bird Hunting Permit, and Conservation Order Permit as prescribed); provided, while hunting or fishing, s/he carries a certified statement of eligibility from the U.S. Department of Veterans Affairs, or orders showing assignment to a warrior transition unit or admissions verification to a military medical center;

[(Q)](R) Any Missouri resident who is the owner of land that wholly encloses a body of water, or any member of his/her immediate household, may fish without permit in those waters. In the case of corporate ownership, this privilege shall apply to those corporate owners whose domicile is on such corporate-owned land;

[(R)](S) Any person may fish without permit, trout permit, and prescribed area daily tag during free fishing days. Free fishing days are the Saturday and Sunday following the first Monday in June; and

[(S)](T) A customer or guest of a licensed trout fishing area may fish for trout without permit (see 3 CSR 10-9.645).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo [2000] 2016. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately two hundred eighty-eight thousand and sixty-six dollars (\$288,066) per year in the aggregate. This information is based on an average loss of three hundred seven thousand seven hundred five dollars (\$307,705) per year in spring turkey hunting permit sales from eleven thousand seven hundred forty (11,740) resident and non-resident accompanying adults not purchasing spring turkey hunting permits, and the average loss of six hundred eighty-seven thousand seven hundred sixty dollars (\$687,760) per year in firearms deer hunting permit sales from thirty-eight thousand two hundred eight (38,208) resident and non-resident accompanying adults not purchasing firearms deer hunting permits, less eighteen thousand four hundred ninety-four dollars (\$18,494) in transaction cost paid to the vendor contracted to administer the permit system and sixty-four thousand seven hundred five dollars (\$64,705) in fees paid to permit vendors to issue permits that will no longer be issued. This estimate assumes that twenty-five percent (25%) of accompanying adults would not have otherwise purchased a deer or turkey hunting permit. Three hundred seven thousand seven hundred five dollars (\$307,705) (Average yearly loss in spring turkey hunting permit sales) + six hundred eighty-seven thousand seven hundred sixty dollars (\$687,760) (Average yearly loss in firearms deer hunting permit sales) – eighteen thousand four hundred ninety-four dollars (\$18,494) (Department transaction costs to issue privileges) – sixty-four thousand seven hundred five dollars (\$64,705) (Fees paid to permit vendors for issuing permits) = nine hundred twelve thousand two hundred sixty-six dollars (\$912,266) (Total average yearly loss) X twenty-five percent (25%) (Estimated number of accompanying adults who would not have otherwise purchased a deer or turkey hunting permit) = two hundred eighty-eight thousand sixty-six dollars (\$288,066) (Average yearly loss in permit sales/estimated yearly cost of compliance).

PRIVATE COST: This proposed amendment will cost private entities, approximately eight hundred (800) permit vendors and one (1) vendor contracted to administer the permit system, approximately twenty thousand seven hundred ninety-nine dollars (\$20,799) per year in the aggregate. This is based on a decrease in yearly sales of nine hundred ninety-five thousand four hundred sixty-five dollars (\$995,465) from spring turkey and firearms deer hunting permits that will no longer be sold to accompanying adults. Permit vendors earn six point five percent (6.5%) of the fees collected for permit sales and the vendor contracted to administer the permit system is paid thirty-seven cents (\$0.37) per privilege transaction. This estimate assumes that twenty-five percent (25%) of accompanying adults would not have otherwise purchased a deer or turkey hunting permit. [nine hundred ninety-five thousand four hundred sixty-five dollars (\$995,465) (Permit fees collected by vendors) X six point five percent (6.5%) (Percentage of permit fees earned by vendors)] + [forty-nine thousand nine hundred eighty-four (49,984) (number of privilege transactions) X thirty-seven cents (\$0.37) (amount paid to vendor per privilege transaction)] = eighty-three thousand one hundred ninety-nine dollars (\$83,199) (Total average yearly loss) X twenty-five per-

cent (25%) (Estimated number of accompanying adults who would not have otherwise purchased a deer or turkey hunting permit) = twenty thousand seven hundred ninety-nine dollars (\$20,799) (Yearly costs of compliance to private entities in the aggregate).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. **Department Title:** 3 – Department of Conservation
Division Title: 10 - Conservation Commission
Chapter Title: 5—Wildlife Code: Permits

| | |
|------------------------------|--|
| Rule Number and Name: | 3 CSR 10-5.205 Permits Required; Exceptions. |
| Type of Rulemaking: | Proposed Amendment |

II. **SUMMARY OF FISCAL IMPACT**

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|--|--|
| Missouri Department of Conservation | \$288,066 in lost revenue from deer and turkey permit sales each year. |
| | |
| | |

III. **WORKSHEET**

\$307,705 (Average yearly loss in spring turkey hunting permit sales) + \$687,760 (Average yearly loss in firearms deer hunting permit sales) – \$18,494 (Transaction costs to issue Privileges) – \$64,705 (Fees paid to permit vendors for issuing permits) = \$912,266 (Total average yearly loss) X 25% (Estimated percentage of accompanying adults who would not have otherwise purchased the permit) = \$288,066 (Average yearly loss in permit sales/estimated yearly cost of compliance).

11,115 (Average number of resident youth turkey hunters w/o hunter safety purchasing a permit prior to or during the Youth Turkey Hunting Season) X \$17.00 (Fee for the accompanying adult resident spring turkey permit) = \$188,955 (Average yearly loss in resident spring turkey hunting permit sales).

625 (Average number of non-resident youth turkey hunters w/o hunter safety purchasing a permit prior to or during the Youth Turkey Hunting Season) X \$190.00 (Fee for the accompanying adult non-resident spring turkey permit) = \$ 118,750 (Average yearly loss in non-resident spring turkey hunting permit sales).

\$188,955 (Average yearly loss in resident spring turkey permit sales) + 118,750 (Average yearly loss in non-resident spring turkey permit sales) = **\$307,705 (Average yearly loss in spring turkey hunting permit sales).**

36,280 (Average number of resident youth firearms deer hunters w/o hunter safety purchasing a permit prior to or during the Early Youth Firearms Deer Hunting Season) X \$7.00 (Fee for the accompanying adult resident firearms antlerless deer hunting permit) = \$253,960 (Average yearly loss in resident deer permit sales).

1928 (Average number of non-resident youth firearms deer hunters w/o hunter safety purchasing a permit prior to or during the Early Youth Firearms Deer Hunting Season) X \$225.00 (Fee for the accompanying adult non-resident firearms any-deer hunting permit) = \$433,800 (Average yearly loss in non-resident deer permit sales).

\$253,960 (Average yearly loss in resident firearms deer hunting permit sales) + \$433,800 (Average yearly loss in non-resident firearms deer hunting permit sales) = **\$687,760 (Average yearly loss in firearms deer hunting permit sales).**

49,984 (Average yearly number of permits sold to accompanying adults) X \$0.37 (transaction cost to the department per privilege issued) = **\$18,494 (Department transaction costs to issue privileges)**

\$995,465 (Total cost of firearms deer and spring turkey hunting permits sold) X 6.5% (Percentage of permit sales paid to permit vendors for issuing permits) = **\$64,705 (Fees paid to permit vendors for issuing permits).**

IV. ASSUMPTIONS

Information is based on permit sale data maintained by the Missouri Department of Conservation. These figures are based on an average of the yearly permit sales for the past five years (2013-2017). This estimate is based on the assumptions that every youth hunter who purchased a permit prior to or during a youth season hunted during the youth season and the accompanying adult purchased the permit required to comply with regulations, there is a 1:1 ratio of accompanying adults to youth hunters, non-resident adults accompanied non-resident youth hunters and resident adults accompanied resident youth hunters, and 25% of accompanying adults would not have otherwise purchased a permit. The estimate assumes no change in future participation and does not consider the loss of any funds the Department may receive from the Wildlife and Sport Fish Restoration fund.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** 3 – Department of Conservation
- Division Title:** 10 Conservation Commission
- Chapter Title:** 5—Wildlife Code: Permits

| | |
|-------------------------------|--|
| Rule Number and Title: | 3 CSR 10-5.205 Permits Required; Exceptions. |
| Type of Rulemaking: | Proposed Amendment |

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|---|--|--|
| 800 Permit Vendors | Businesses contracting with the Department to sell permits. | \$16,176 per year for percentage of fees earned by vendors for permit sales |
| 1 Permit System Vendor | Business contracting with the Department to administer permit system | \$4,623 per year in permit transaction fees earned by vendor |
| | | \$20,799 per year in costs for all private entities to comply |
| | | |

III. WORKSHEET

[\$995,465 (Permit fees collected by vendors) X 6.5% (Percentage of permit fees earned by vendors)] + [49,984 (number of privilege transactions) X \$0.37 (amount paid to vendor per privilege transaction)] = \$83,199 (Total average yearly loss) X 25% (Estimated number of accompanying adults who would not have otherwise purchased a permit) = \$20,799 (yearly costs of compliance to private entities in the aggregate).

[49,984 (Average yearly number of permits sold to accompanying adults) X \$0.37 (transaction cost to the department per privilege issued)] X 25% (percentage of accompanying adults would not have otherwise purchased a permit) = **\$4,623 (Money earned for privilege transaction costs)**

[\$995,465 (Total cost of firearms deer and spring turkey hunting permits sold) X 6.5% (Percentage of permit sales paid to permit vendors for issuing permits)] X 25% (percentage of accompanying adults would not have otherwise purchased a permit) = **\$16,176 (Fees paid to permit vendors for issuing permits).**

11,115 (Average number of resident youth turkey hunters w/o hunter safety purchasing a permit prior to or during the Youth Turkey Hunting Season) X \$17.00 (Fee for the accompanying adult resident spring turkey permit) = \$188,955 (Average yearly resident spring turkey hunting permit fees collected by vendors).

625 (Average number of non-resident youth turkey hunters w/o hunter safety purchasing a permit prior to or during the Youth Turkey Hunting Season) X \$190.00 (Fee for the accompanying adult non-resident spring turkey permit) = \$ 118,750 (Average yearly non-resident spring turkey hunting permit fees collected by vendors).

\$188,955 (Average yearly resident spring turkey hunting permit fees collected by vendors) +
118,750 (Average yearly non-resident spring turkey permit fees collected by vendors) =
\$307,705 (Average yearly spring turkey hunting permit fees collected by vendors).

36,280 (Average number of resident youth firearms deer hunters w/o hunter safety purchasing a permit prior to or during the Early Youth Firearms Deer Hunting Season) X \$7.00 (Fee for the accompanying adult resident firearms antlerless deer hunting permit) = \$253,960 (Average yearly resident firearms deer hunting permit fees collected by vendors).

1928 (Average number of non-resident youth firearms deer hunters w/o hunter safety purchasing a permit prior to or during the Early Youth Firearms Deer Hunting Season) X
\$225.00 (Fee for the accompanying adult non-resident firearms any-deer hunting permit) =
\$433,800 (Average yearly non-resident firearms deer hunting permit fees collected by vendors).

\$253,960 (Average yearly resident firearms deer hunting permit fees collected by vendors) +
\$433,800 (Average yearly non-resident firearms deer hunting permit fees collected by vendors)
= \$687,760 (Average yearly firearms deer hunting permit fees collected by vendors).

V. ASSUMPTIONS

Information is based on permit sale data maintained by the Missouri Department of Conservation. These figures are based on an average of the yearly permit sales for the past five years (2013-2017). This estimate is based on the assumptions that every youth hunter who purchased a permit prior to or during a youth season hunted during the youth season and the accompanying adult purchased the permit required to comply with regulations, there is a 1:1 ratio of accompanying adults to youth hunters, non-resident adults accompanied non-resident youth hunters and resident adults accompanied resident youth hunters, and 25% of accompanying adults would not have otherwise purchased a permit. It is also assumed that all permits were purchased through an external permit vendor and there is no change in the average number of permits sold per year.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.215 Permits and Privileges: How Obtained; Not Transferable. The commission proposes to amend section (1) and the authority section of this rule.

PURPOSE: This amendment adds a requirement for individuals to provide their Social Security number to obtain a license from the department, as required by state and federal law, and corrects an inaccurate reference in the authority section.

(1) Permits may be obtained only upon satisfaction of all requirements imposed by this Code **and state statute**, including payment of fees **and provision of Social Security number**, at the time of application. *[The Missouri Conservation Heritage Card, Social Security number, Driver License number, or a Missouri Conservation identification number shall be required to purchase all permits except daily tags.]*

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section [252.240] 252.040, RSMo [2000] 2016. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions six thousand seven hundred dollars (\$6,700) in the aggregate.

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
 PUBLIC COST**

- I. **Department Title: Department of Conservation**
Division Title: Division 10 – Conservation Commission
Chapter Title: Chapter 5—Wildlife Code: Permits

| | |
|------------------------------|---|
| Rule Number and Name: | 3 CSR 10-5.215 Permits and Privileges: How Obtained; Not Transferable |
| Type of Rulemaking: | Proposed amendment |

II. **SUMMARY OF FISCAL IMPACT**

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|--|---|
| Department of Conservation | \$6,700 |
| | |
| | |

III. **WORKSHEET**

One-time \$6,700 vendor payment to modify the department’s licensing platform system.

IV. **ASSUMPTIONS**

This is a one-time payment, no additional costs associated with this change are anticipated for the life of the rule.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.222 Youth Pricing: Deer and Turkey Permits. The commission proposes to amend this rule and the authority section of the rule.

PURPOSE: This amendment establishes reduced-price firearms deer management assistance program permits for youths age fifteen (15) and younger, updates a reference to another portion of the Wildlife Code, and corrects an inaccurate reference in the authority section.

Any person at least six (6), but not older than fifteen (15), years of age may purchase the following permits at fifty percent (50%) of the cost of a resident permit: **Firearms Deer Management Assistance Program Permit**, Firearms Any-Deer Hunting Permit, Firearms Antlerless Deer Hunting Permit, Managed Deer Hunting Permit, Archer's Hunting Permit, Archery Antlerless Deer Hunting Permit, or Turkey Hunting Permits. When hunting on firearms deer or turkey permits, persons fifteen (15) years of age or younger must comply with the requirements in 3 CSR 10-5.205(1)(F)(G).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section [252.240] 252.040, RSMo [2000] 2016. Original rule filed Oct. 10, 2008, effective July 1, 2009. Amended: Filed May 25, 2012, effective Oct. 30, 2012. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED RULE

3 CSR 10-5.600 Resident Firearms Deer Management Assistance Program Permit

PURPOSE: This rule establishes a permit for residents to take antlerless deer from property enrolled in the department's deer management assistance program during the firearms deer hunting season.

To pursue, take, possess, and transport one (1) antlerless deer from property enrolled in the department's deer management assistance program. Fee: seven dollars (\$7).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or

political subdivisions more than five hundred dollars (\$500) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED RULE

3 CSR 10-5.605 Nonresident Firearms Deer Management Assistance Program Permit

PURPOSE: This rule establishes a permit for nonresidents to take antlerless deer from property enrolled in the department's deer management assistance program during the firearms deer hunting season.

To pursue, take, possess, and transport one (1) antlerless deer from property enrolled in the department's deer management assistance program. A Nonresident Firearms Any-Deer Hunting Permit or a Nonresident Managed Deer Hunting Permit is required as a prerequisite to this permit. Fee: twenty-five dollars (\$25).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.415 Restricted Zones. The commission proposes to add subsection (4)(C) to this rule.

PURPOSE: This amendment restricts the fishing methods used in the taking of species defined as live bait on the Clarence Cannon Reregulation Pool from below the zone closed to all fishing, four hundred feet (400') below the Clarence Cannon Dam, to the Reregulation Dam.

(4) Live bait, as defined in 3 CSR 10-6.605, may be taken only by pole and line from—

(A) Black River from below the zone closed to all fishing within the wing walls of Clearwater Dam to the Highway 34 bridge; *[and]*

(B) St. Francis River from below the zone closed to all fishing two hundred twenty-five feet (225') below Wappapello Dam to Wayne County Road 517I.J; *and*

(C) Clarence Cannon Reregulation Pool, from below the zone closed to all fishing four hundred feet (400') below Clarence Cannon Dam to the Reregulation Dam.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,
Limits

PROPOSED AMENDMENT

3 CSR 10-7.405 General Provisions. The commission proposes to amend section (5) of this rule.

PURPOSE: This amendment simplifies the Wildlife Code by eliminating unnecessary verbiage.

(5) Wildlife, except raccoons or other furbearing animals when treed with the aid of dogs, may not be searched for, harassed, or disturbed in any manner with the aid of an artificial light, headlight, or spotlight from any roadway, whether public or private, or in any field, woodland, or forest, by any person acting either singly or as one (1) of a group of persons. This section shall not apply to the use of a light by a landowner *[or lessee]* as defined by this Code on property under his/her control.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 26, 1964, effective Dec. 31, 1964. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with

Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,
Limits

PROPOSED AMENDMENT

3 CSR 10-7.410 Hunting Methods. The commission proposes to amend subsection (1)(H) of this rule.

PURPOSE: This amendment simplifies the Wildlife Code by eliminating unnecessary verbiage. Due to confusion regarding eligibility for no-cost permits and challenges faced with enforcement of the current regulation, the Department of Conservation will no longer offer lessees the same privileges as landowners.

(1) Wildlife may be hunted and taken only in accordance with the following:

(H) Special Firearms Provision. During the November portion and the antlerless portion of the firearms deer season in counties open to deer hunting, other wildlife may be hunted and feral hogs may be taken only with a pistol, revolver, or rifle firing a rimfire cartridge .22 caliber or smaller or a shotgun and shot not larger than No. 4, except that waterfowl hunters, trappers, landowners on their land, or lessees on land upon which they reside may use other methods as specified in subsection (1)(G) of this rule;

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,
Limits

PROPOSED AMENDMENT

3 CSR 10-7.431 Deer Hunting Seasons: General Provisions. The commission proposes to amend section (3) of this rule.

PURPOSE: This amendment simplifies the Wildlife Code by eliminating unnecessary verbiage. Due to confusion regarding eligibility for

no-cost permits and challenges faced with enforcement of the current regulation, the Department of Conservation will no longer offer lessees the same privileges as landowners.

(3) Persons hunting or pursuing deer must possess a prescribed deer hunting permit. Resident landowners *[and lessees]* can qualify for no-cost permits.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

PRIVATE COST: This proposed amendment will cost private entities between an estimated two hundred fifty-three thousand seven hundred twenty-three (\$253,723) annually in the aggregate and one million one hundred ninety-three thousand nine hundred ninety dollars (\$1,193,990) annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE COST**

- I. **Department Title: Department of Conservation
Division Title: Division 10 – Conservation Commission
Chapter Title: Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

| | |
|------------------------------|---|
| Rule Number and Name: | 3 CSR 10-7.431 Deer Hunting Seasons: General Provisions |
| Type of Rulemaking: | Proposed amendment |

II. **SUMMARY OF FISCAL IMPACT**

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|---|---|
| Individual adults acquiring no-cost permits through a Lessee designation | Annual aggregate estimate of between \$253,723 and \$1,193,990 |
| | |
| | |

III. **WORKSHEET**

Minimum Estimate:

[0.08 (annual percentage of reviewed no-cost permit holders designated as lessees) **X 186,561** (total number of individuals receiving a no-cost permit in 2017)] **X \$17** (cost per individual adult to purchase a resident firearm any deer) = **\$253,723**

Maximum Estimate:

[0.08 (annual percentage of reviewed no-cost permit holders designated as lessees) **X 186,561** (total number of individuals receiving a no-cost permit in 2017)] **X \$80** (cost per individual adult to purchase a resident firearm any deer and antlerless permits, resident firearms spring and fall turkey permits, and resident archer's hunting permit, and a resident archery antlerless deer permit) = **\$1,193,990**

IV. **ASSUMPTIONS**

Of reviewed no-cost permit holders in 2016 (11,500 reviewed) and 2017 (8,500 reviewed) there was an average of 0.08 (8 percent) designated as lessees. In 2017 there were 186,561 unique individuals that held a no-cost hunting permit. We assume that all individuals designated as lessees would be adults and would purchase at least the resident firearm any deer (\$17); however, at a maximum, they could also possibly purchase an antlerless (\$7) permits, resident firearms spring (\$17) and fall (\$13) turkey permits, and resident archer's hunting permit (\$17, which includes 2 deer permits and 2 turkey permits), and a resident archery antlerless deer permit (\$7). Our calculation does not account for the many lessee permits that the Department believes were fraudulently obtained in the past.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,
Limits

PROPOSED AMENDMENT

3 CSR 10-7.433 Deer: Firearms Hunting Season. The commission proposes to amend subsections (2)(B), (3)(A), and (4)(D) of this rule.

PURPOSE: This amendment establishes provisions for obtaining Nonresident Firearms Deer Management Assistance Program Permits and simplifies the Wildlife Code by eliminating unnecessary verbiage. Due to confusion regarding eligibility for no-cost permits and challenges faced with enforcement of the current regulation, the Department of Conservation will no longer offer lessees the same privileges as landowners.

(2) Firearms Deer Hunting Permits.

(B) Resident or Nonresident Firearms Antlerless Deer Hunting Permit: valid for one (1) antlerless deer in any open county. Persons may purchase any number of these permits and fill them where valid. A Nonresident Firearms Any-Deer Hunting Permit must be purchased before purchasing Nonresident Firearms Antlerless Deer Hunting Permits and Nonresident Firearms Deer Management Assistance Program Permits.

(3) Other wildlife may be hunted during the firearms deer hunting season except as further restricted in this section—

(A) During the November portion statewide and the antlerless portion in open counties, other wildlife (except furbearers) may be hunted only with pistol, revolver, or rifle firing a .22 caliber or smaller rimfire cartridge, or a shotgun and shot not larger than No. 4; except that waterfowl hunters, trappers, or landowners on their land *[or lessees on land upon which they reside]* may use other methods as specified in 3 CSR 10-7.410(1)(G);

(4) Feral hogs may be taken in any number during the firearms deer hunting season as follows:

(D) Resident landowners *[and lessees]* on qualifying land are not required to have any permit and may use any method to take feral hogs throughout the year.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,
Limits

PROPOSED AMENDMENT

3 CSR 10-7.434 Deer: Landowner Privileges. The commission proposes to amend sections (1), (3), and (4), subsections (4)(A)–(D), and paragraphs (1)(B)1. and (1)(B)2. of this rule.

PURPOSE: This amendment simplifies the Wildlife Code by eliminating unnecessary verbiage. Due to confusion regarding eligibility for no-cost permits and challenges faced with enforcement of the current regulation, the Department of Conservation will no longer offer lessees the same privileges as landowners. It also clarifies corporate ownership privileges to align the Code with the corporate definition within the Missouri Revised Statutes and clarifies that general partnerships must be formed by written agreement.

(1) Resident landowners *[and lessees]* as outlined in the *Fall Deer & Turkey Hunting Regulations and Information* booklet can obtain no-cost deer hunting permits from any permit vendor.

(B) In addition to the permits listed in subsection (1)(A), those with seventy-five (75) or more acres located in a single county or at least seventy-five (75) continuous acres bisected by a county boundary can receive a maximum of two (2) Resident Landowner Firearms Antlerless Deer Hunting Permits. Landowners with at least seventy-five (75) acres in more than one (1) county must comply with landowner antlerless deer limits for each county.

1. Resident landowners *[and lessees]* of at least seventy-five (75) acres may receive one (1) no-cost Landowner Antlerless Deer Hunting Permits in the counties of: Bollinger, Butler, Cape Girardeau, Carter, Christian, Dent, Douglas, Dunklin, Iron, Lawrence, Madison, Maries, McDonald, Mississippi, New Madrid, Newton, Pemiscot, Perry, Phelps, Pulaski, Reynolds, Ripley, Scott, Shannon, Stoddard, Texas, Wayne, Webster, and Wright.

2. Resident landowners *[and lessees]* of at least seventy-five (75) acres may receive two (2) no-cost Landowner Antlerless Deer Hunting Permits in the counties of: Adair, Andrew, Atchison, Audrain, Barry, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Camden, Carroll, Cass, Cedar, Chariton, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Franklin, Gasconade, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Howell, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Miller, Moniteau, Monroe, Montgomery, Morgan, Nodaway, Oregon, Osage, Ozark, Pettis, Pike, Platte, Polk, Putnam, Ralls, Randolph, Ray, St. Charles, St. Clair, St. Francois, St. Louis, Ste. Genevieve, Saline, Schuyler, Scotland, Shelby, Stone, Sullivan, Taney, Vernon, Warren, Washington, and Worth.

(3) All landowners *[and lessees]* who take deer on landowner permits may also purchase and fill other deer hunting permits but must abide by seasons, limits, and restrictions. A landowner *[or lessee]* may take only two (2) antlered deer during the archery and firearms deer hunting seasons combined, with no more than one (1) antlered deer taken during the firearms deer season and only one (1) antlered deer may be taken prior to the November portion of the firearms deer hunting season.

(4) **In the case of corporate ownership of land,** *[P]*persons defined as landowners include Missouri residents who are:

(A) General partners of resident limited liability partnerships $[:]$, limited partnerships, or limited liability limited partnerships, and general partners of general partnerships formed by written agreement

(B) Officers of resident or foreign corporations $[:]$

(C) [Officers or m]Managing members of resident limited liability companies; and

(D) Officers of benevolent associations organized pursuant to Chapter 352 of the Revised Statutes of Missouri[.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,
Limits**

PROPOSED AMENDMENT

3 CSR 10-7.455 Turkeys: Seasons, Methods, Limits. The commission proposes to amend sections (4) and (7) of this rule.

PURPOSE: This amendment simplifies the Wildlife Code by eliminating unnecessary verbiage. Due to confusion regarding eligibility for no-cost permits and challenges faced with enforcement of the current regulation, the Department of Conservation will no longer offer lessees the same privileges as landowners.

(4) A resident landowner [or lessee] as defined in 3 CSR 10-20.805, possessing a landowner turkey hunting permit, may take and possess turkeys in accordance with this rule on his/her land [or, in the case of the lessee, on the land on which s/he resides and] shall report the turkeys through the Telecheck Harvest Reporting System as required in this rule.

(7) Feral hogs may be taken in any number during the spring firearms turkey season and youth spring season only by the holder of a valid unused turkey hunting permit and only by methods and times prescribed for taking turkeys. During the fall firearms turkey season, feral hogs may be taken only by the holder of a valid, unused turkey hunting permit or a small game hunting permit and only by methods prescribed in Chapter 7 for taking wildlife and without the use of bait. Other restrictions may apply on public lands. Resident landowners [or lessees] as defined in this Code may take feral hogs on their own property at any time, by any method, and without permit.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Dec. 15, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,
Limits**

PROPOSED RULE

3 CSR 10-7.600 Deer Management Assistance Program

PURPOSE: This rule establishes general provisions for enrollment in the department's deer management assistance program and for hunting in the program.

(1) Landowners with property located in Bollinger, Cape Girardeau, Stoddard, and Wayne counties may enroll property in the department-sponsored deer management assistance program in accordance with the following:

(A) An enrolled property shall be at least five hundred (500) acres, except inside the boundaries of cities or towns, an enrolled property shall be at least forty (40) acres. Individual parcels of land, regardless of ownership, may be combined to satisfy the acreage requirement for an enrolled property; provided, each parcel of land is no more than one half (0.5) air miles from the boundary of another parcel being combined to form an enrolled property. An enrolled property, or parcels being combined to create an enrolled property, may be dissected by public roads.

(B) Landowners shall submit an application and have a deer management plan approved by the department to enroll property in the program. Application and deer management plan approval shall be on an annual basis.

(C) Landowners shall submit the following information to the department for any person who is authorized to obtain firearms deer management assistance program permit(s) for use on an enrolled property, or the portion of an enrolled property under their control: Name, domicile address, e-mail, phone number, conservation identification number, Social Security number, and property identification number assigned to the enrolled property by the department.

(2) In addition to the take of deer in accordance with statewide deer hunting regulations, additional antlerless deer may be taken during the firearms deer hunting season on properties enrolled in the department-sponsored deer management assistance program in accordance with the following:

(A) Persons hunting or pursuing additional antlerless deer on enrolled properties must possess the prescribed firearms deer management assistance program permit. A firearms deer management assistance program permit may only be obtained by a person whose name, domicile address, e-mail, phone number, conservation identification number, Social Security number, and the enrolled property identification number has been submitted to the department by a participating landowner with property enrolled in the program. A Nonresident Firearms Any-Deer Hunting Permit or a Nonresident Managed Deer Hunting Permit is required of nonresidents as a prerequisite to this permit.

(B) All firearms deer management assistance program permits are valid only on the enrolled property they were issued for, or in the

case of multiple landowners of enrolled property, only on the portion of the enrolled property where the permit holder has obtained landowner permission to pursue and take deer.

(C) Additional antlerless deer may be taken on enrolled properties only in accordance with the statewide deer hunting regulations in this chapter. All applicable statewide season, method, permit, limit, tagging, and checking requirements apply, except firearms deer management assistance program permits filled while hunting on an enrolled property are not included in the antlerless permit limits established by 3 CSR 10-7.437.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 28, 2018.

PUBLIC COST: This proposed rule will cost the Missouri Department of Conservation an estimated five thousand three hundred fifty dollars (\$5,350) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities an estimated three thousand eight dollars (\$3,008) annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Conservation
Division Title: Division 10 – Conservation Commission
Chapter Title: Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

| | |
|------------------------------|---|
| Rule Number and Name: | 3 CSR 10-7.600 Deer Management Assistance Program |
| Type of Rulemaking: | Proposed rule |

II. SUMMARY OF FISCAL IMPACT

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|--|---|
| Department of Conservation | \$5,350 |

III. WORKSHEET

One-time \$5,350 vendor payments to modify the department's licensing platform system.

IV. ASSUMPTIONS

This is one-time payments, no additional costs associated with this change are anticipated for the life of the rule.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Department of Conservation
Division Title: Division 10 – Conservation Commission
Chapter Title: Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

| | |
|------------------------------|---|
| Rule Number and Name: | 3 CSR 10-7.600 Deer Management Assistance Program |
| Type of Rulemaking: | New Rule |

II. SUMMARY OF FISCAL IMPACT

| | |
|--|---|
| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
| Individuals utilizing new permit | Annual aggregate estimate of \$3,008 |

III. WORKSHEET

[400 (estimated number of issued deer management assistance program permits) X 78% (percent of permittees that are residents) X \$7 (cost of resident deer management assistance program permits)] + [400 (estimated number of issued deer management assistance program permits) X 6% (percent of permittees that are non-residents) X \$25 (cost of non-resident deer management assistance program permits)] + [400 (estimated number of issued deer management assistance program permits) X 16% percent of permittees that are youth) X \$3.50 (cost of youth deer management assistance program permits)] = \$3,008

V. ASSUMPTIONS

In Bollinger, Cape Girardeau, Stoddard and Wayne counties there were 35 deer damage authorizations issued during the summer of 2017 which authorized the destruction of approximately 300 deer from those counties. To estimate maximum fiscal impact, we assumed all of those landowners issued damage authorizations will utilize the new deer management assistance program permits during the fall deer hunting season. We estimate there will be an additional 100 deer management assistance permits issued as part of a landowner management of their property.

The any-deer permits issued in Bollinger, Cape Girardeau, Stoddard and Wayne counties during the 2017-2018 deer hunting season comprised of 78% residents, 16% youth, and 6% nonresidents. We assume the 400 deer management assistance permits will be proportioned similar to the any-deer permits issued in Bollinger, Cape Girardeau, Stoddard and Wayne counties during the 2017-2018 deer hunting season.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-10.715 Resident and Nonresident Fur Dealers: Reports, Requirements. The commission proposes to amend sections (1) and (2) of this rule

PURPOSE: This amendment modifies the record keeping and reporting requirements to be met by fur dealers.

(1) Each fur dealer shall keep an up-to-date, accurate record of all furbearer pelts purchased, sold, consigned, or stored. For each transaction, the seller's name, address, and permit number shall be recorded immediately in **either** a fur record book furnished **or a form approved** by the department. All such records and furs shall be made available for inspection by an authorized agent of the department at any reasonable time.

(2) Each fur dealer shall submit annually a report on **either** forms furnished **or those approved** by the department. Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at www.missouriconservation.org. All fur dealers' reports shall include all transactions in furbearer pelts for the twelve (12) months preceding April 10 of the current year and an inventory of fur held in storage. Such reports shall be submitted by April 20.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 30, 1979, effective Jan. 1, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-10.768 Sales and Possession of Wildlife Parts and Mounted Specimens. The commission proposes to amend section (1) of this rule.

PURPOSE: This amendment expands the list of turkey parts allowed to be bought, sold, or bartered when accompanied by a bill of sale, and adds a bill of sale retention requirement for the purchaser of the wildlife parts specified in this rule.

(1) Subject to federal regulations, legally obtained feathers, squirrel pelts, rabbit pelts, **and** groundhog pelts[, turkey bones, turkey heads and deer heads, antlers, hides or feet] may be bought, sold, or bartered when accompanied by a bill of sale [showing]. **In addition, legally obtained deer heads, antlers, hides, or feet, and turkey feathers, beards, heads, bones, feet, spurs, wings, tails or tail fans, and skins, including skins with the feathers, wings, and legs attached, may also be bought, sold, or bartered when accompanied by a bill of sale. Bills of sale required by this rule shall contain the seller's full name, address, and the number and species of these parts, and the full name and address of the purchaser. The bill of sale shall be retained by the purchaser while these parts are in his/her possession.** Legally taken wildlife and wildlife parts, after mounting or tanning, may be bought and sold.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 27, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.115 Closings. The commission proposes to amend section (3) and subsections (3)(A) and (3)(E), remove subsections (3)(G) and (3)(J), add new subsection (3)(M), re-letter subsequent subsections, amend new subsections (3)(H) and (3)(J), remove section (5), and add new sections (5) and (6) to this rule.

PURPOSE: This amendment clarifies when department areas are open to public use and standardizes the format used for conservation area names.

(3) Department lands associated with offices, education centers, nature centers, hatcheries, staffed shooting ranges, and the following conservation areas are open to public use only [as] during the hours authorized by posting:

- (A) [August G.] Beckemeier (**August G.**) Conservation Area
- (E) [Jean and Joan] Goodson (**Jean and Joan**) Conservation Area
- [(G)] **Ronald and Maude Hartell Conservation Area**
- [(H)] **(G) Hickory Woods Conservation Area**
- [(I)] **(H) [Roger] Klamburg (Roger) Woods Conservation Area**
- [(J)] **Little Dixie Lake Conservation Area**
- [(K)] **(I) Phantom Forest Conservation Area**
- [(L)] **(J) [James A.] Reed (James A.) Memorial Wildlife Area**
- [(M)] **(K) Rockwoods Range**
- [(N)] **(L) Rockwoods Reservation**

(M) Rush Creek Conservation Area
/(O)/(N) Wild Cherry Ridge Conservation Area

[(5) The following department areas are closed to protect waterfowl:

(A) On Stockton Lake waterfowl refuge, hunting, fishing, trapping, boating, and vehicles are prohibited from October 15 through the area's prescribed duck season on all Corps of Engineers lands and waters on and adjacent to the Little Sac Arm between the Highway 123 bridge on the west, the high bank of Stockton Lake on the south, Highway T on the north, and the area boundary on the east.

(B) On the portions of Ralph and Martha Perry Memorial Conservation Area and Truman Reservoir Management Lands (Grand River Bottoms Wildlife Management Area), which have been designated as waterfowl refuge, hunting, fishing, trapping, boating, entry by the public, and vehicles are prohibited from October 15 through the close of the waterfowl season.]

(5) On the following department areas, portions designated as Waterfowl Refuge are closed to all public use according to the dates listed below and as shown on the area map or the online conservation atlas. Portions of these designated areas may be open to other activities by posting.

(A) October 15 through March 1:

1. Brown (Bob) Conservation Area
2. Columbia Bottom Conservation Area
3. Coon Island Conservation Area
4. Eagle Bluffs Conservation Area
5. Fountain Grove Conservation Area
6. Four Rivers (August A. Busch Jr. Memorial Wetlands at)

Conservation Area

7. Grand Pass Conservation Area
8. Leach (B.K.) Memorial Conservation Area (Kings Lake and Bittern Basin)
9. Marais Temps Clair Conservation Area
10. Montrose Conservation Area
11. Nodaway Valley Conservation Area
12. Perry (Ralph and Martha) Conservation Area
13. Schell-Osage Conservation Area
14. Settle's Ford Conservation Area
15. Shanks (Ted) Conservation Area

(B) October 15 through March 31:

1. Otter Slough Conservation Area
2. Ten Mile Pond Conservation Area

(C) October 15 through the end of the last segment of the appropriate zone's duck season:

1. Duck Creek Conservation Area (Pool 1 South)
2. Kendzora (Anthony and Beatrice) Conservation Area
3. Leach (B.K.) Memorial Conservation Area (River Slough portion)
4. Otter Slough Conservation Area (Cypress Lake)
5. Stockton Lake Management Lands

(D) October 15 through the end of the last segment of the appropriate zone's Canada goose season:

1. Duck Creek Conservation Area (Pool 1 North and Dark Cypress Swamp Refuge)
2. Little River Conservation Area
3. Truman Reservoir Management Lands (Grand River Bottoms Wildlife Management Area)

(6) On the following department areas, portions designated as Waterfowl Hunting Only Zone are closed to all public use except waterfowl hunting, according to the dates listed below, and as shown on the area map or the online conservation atlas. Portions of these designated areas may be open to other activities by posting.

(A) From October 15 - February 15:

1. Coon Island Conservation Area
 2. Duck Creek Conservation Area
 3. Fountain Grove Conservation Area
 4. Four Rivers Conservation Area (August A. Busch Jr. Memorial Wetlands at)
 5. Grand Pass Conservation Area
 6. Montrose Conservation Area
 7. Otter Slough Conservation (Waterfowl Hunt Zone 1)
 8. Schell-Osage Conservation Area
- (B) From October 15 through the end of the last segment of the appropriate zone's duck season:

1. Brown (Bob) Conservation Area
2. Columbia Bottom Conservation Area
3. Eagle Bluffs Conservation Area
4. Leach (B.K.) Memorial Conservation Area
5. Marais Temps Clair Conservation Area
6. Nodaway Valley Conservation Area
7. Otter Slough Conservation Area (Waterfowl Hunt Zone 2)
8. Shanks (Ted) Conservation Area

(C) From November 1 through the end of the last segment of the appropriate zone's Canada goose season:

1. Little River Conservation Area
2. Ten Mile Pond Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION

Division 10—Conservation Commission

Chapter 11—Wildlife Code: Special Regulations for Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.120 Pets and Hunting Dogs. The commission proposes to amend paragraphs (1)(A)1.-7., section (2), and the authority section of this rule.

PURPOSE: This amendment establishes provisions for dog training and releasing rock pigeon on department areas, makes grammatical clarifications, and corrects an inaccurate reference in the authority section of the rule.

(1) Pets and hunting dogs are permitted but must be on a leash or confined at all times, except as otherwise provided by signs, area brochures, or this chapter.

(A) Pets and hunting dogs are prohibited on the following department areas:

1. Burr Oak Woods Conservation Area[;]

- 2. Cape Girardeau Conservation [Campus] Nature Center[;]
- 3. Engelmann Woods Natural Area[;]
- 4. Powder Valley Conservation Nature Center[;]
- 5. Runge Conservation Nature Center[;]
- 6. Springfield Conservation Nature Center[; and]
- 7. White Alloe Creek Conservation Area[.]

(2) Hunting dogs may be used off the leash and unconfined for hunting and for training for the purposes of chasing, locating, tracking, or retrieving game when hunting and dog training as defined by this Code[.]. **Legally obtained rock pigeon may be released and taken in any number from August 1 through March 31**, on those department areas where and when hunting and dog training are permitted.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section [252.240] 252.040, RSMo [2000] 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.125 Field Trials. The commission proposes to amend subsection (1)(B); remove subsections (1)(C), (1)(F), (1)(L), (1)(N), and (1)(R); add new subsections (1)(E) and (1)(P); re-letter subsequent subsections; amend new subsections (1)(I), (1)(J), (1)(K), (1)(L), (1)(O); add new subsection (4)(B), re-letter subsequent subsections, add a new section (5), and amend the authority section of this rule.

PURPOSE: This amendment modifies the list of department areas where field trials can be held, allows raccoon field trails on areas over one thousand (1,000) acres with a Field Trial Special Use Permit, standardizes the format used for conservation area names, and corrects an inaccurate reference in the authority section of the rule.

(1) Field trials are only permitted on the department areas listed below. A field trial special use permit issued by the area manager is required. Unless otherwise provided on the field trial special use permit, field trials are permitted from September 1 through the Monday closest to March 31. Field trial types and locations may be further restricted on each designated area:

- (B) [August A.] Busch (August A.) Memorial Conservation Area
- [(C) Belcher Branch Lake

- [(D)](C) Bois D' Arc Conservation Area
- [(E)](D) Bushwacker Lake Conservation Area
- (E) Canaan Conservation Area**
- [(F) Donaldson Point Conservation Area]
- [(G)](F) Duck Creek Conservation Area
- [(H)](G) Eagle Bluffs Conservation Area
- [(I)](H) Fort Crowder Conservation Area
- [(J)](I) [The Wayne] Helton (The Wayne) Memorial Wildlife Area
- [(K)](J) Maintz [Conservation Area] Wildlife Preserve
- [(L) Nodaway County Community Lake]
- [(M)](K) Pony Express Lake Conservation Area
- [(N) Poosey Conservation Area]
- [(O)](L) [James A.] Reed (James A.) Memorial Wildlife Area
- [(P)](M) Rocky Fork Lakes Conservation Area
- [(Q)](N) Shawnee Trail Conservation Area
- [(R) Stockton Reservoir]
- [(S)](O) [Robert E.] Talbot (Robert E.) Conservation Area
- (P) Truman Reservoir Management Lands (Upper Tebo Creek)**
- [(T)](Q) Whetstone Creek Conservation Area
- [(U)](R) White River Trace Conservation Area
- [(V)](S) Wilhelmina Conservation Area

(4) For game bird field trials:

(B) All birds to be released must be accompanied by a certificate of veterinary inspection signed by an accredited veterinarian.

[(B)](C) Quail, pheasants, and exotic partridges shall be marked with a permanent avian leg band prior to release. Mallard ducks shall be marked by removal of the hind toe from the right foot, or by tattooing a readily discernible number or letter or combination on the web of one (1) foot.

[(C)](D) Legally obtained quail, pheasants, exotic partridges, and mallard ducks may be taken in any number during a field trial and may be possessed and transported from the field trial area by persons other than the field trial permit holder only when accompanied by a receipt listing the date, number, and species, and the name, address, and permit number of the field trial permit holder. In addition, the marked foot must remain attached to mallard ducks.

(5) Field trials using running dogs pursuing raccoon may be conducted on department areas not listed in 3 CSR 10-11.180(3) or 3 CSR 10-11.180(4) and greater than one thousand (1,000) acres where appropriate from September 1 through March 31 only by Field Trial Special Use Permit.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section [252.240] 252.040, RSMo [2000] 2016. Original rule filed May 9, 2002, effective Oct. 30, 2002. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.130 Vehicles, Bicycles, Horses, and Horseback Riding. The commission proposes to amend section (3); remove section (4); renumber subsequent sections; amend new paragraphs (4)(A)2., (4)(A)4., (4)(A)8., (4)(A)10., (4)(A)11., (4)(A)15., (4)(C)6., (5)(C)2., (5)(C)12., (5)(C)22., and (5)(C)24.; amend new subsection (6)(C); add new subsection (6)(D); re-letter subsequent subsections; and amend new subsection (6)(G) of this rule.

PURPOSE: This amendment increases opportunities to use trails on certain conservation areas, removes a definition that is being added to Chapter 20, and standardizes the format used for conservation area names.

(3) Equestrian use is permitted only on designated multi-use trails and on roads open to vehicular traffic, except as provided in sections (6) and (7) [and (8)] of this rule. Groups of more than ten (10) people must obtain a special use permit.

[(4)] For the purposes of this rule, a multi-use trail is a trail upon which hiking and at least one (1) of the following other activities are allowed concurrently: bicycling and equestrian use.]

[(5)](4) Designated multi-use trails are open for use year-round as specified on the following department areas:

- (A) Areas with multi-use trails open to bicycling—
 1. Big Creek Conservation Area
 2. *[August A.]* Busch (**August A.**) Memorial Conservation Area
 3. Columbia Bottom Conservation Area
 4. *[Lester R.]* Davis (**The Lester R.**) Memorial Forest
 5. Hart Creek Conservation Area
 6. Hinkson Woods Conservation Area
 7. Howell Island Conservation Area
 8. *[Roger]* Klamberg (**Roger**) Woods Conservation Area
 9. Little Dixie Lake Conservation Area
 10. *[William R.]* Logan (**William R.**) Conservation Area
 11. *[Julian]* Steyermark (**Julian**) Woods Conservation Area
 12. Sunbridge Hills Conservation Area
 13. Walnut Woods Conservation Area
 14. Weldon Spring Conservation Area
 15. *[Mark]* Youngdahl (**Mark**) Urban Conservation Area
- (B) Areas with multi-use trails open to equestrian use—
 1. Forest 44 Conservation Area
 2. Prairie Home Conservation Area
- (C) Areas with multi-use trails open to bicycling and equestrian use—
 1. Bicentennial Conservation Area
 2. Big Buffalo Creek Conservation Area
 3. Busiek State Forest and Wildlife Area
 4. Flag Spring Conservation Area
 5. Huckleberry Ridge Conservation Area
 6. *[James A.]* Reed (**James A.**) Memorial Wildlife Area
 7. Rockwoods Range
 8. Saeger Woods Conservation Area
 9. Stockton Lake Management Lands
 10. Three Creeks Conservation Area
 11. Wappapello Lake Management Lands
 12. Wire Road Conservation Area

[(6)](5) Designated multi-use trails are open for use as specified

except during all portions of the firearms deer hunting season and the spring turkey hunting seasons on the following department areas:

- (A) Areas with multi-use trails open to bicycling—
 1. Poosey Conservation Area (Green Hills Trail)
- (B) Areas with multi-use trails open to equestrian use—
 1. Angeline Conservation Area
 2. Bushwhacker Lake Conservation Area
 3. Long Ridge Conservation Area
 4. Scrivner Road Conservation Area
- (C) Areas with multi-use trails open to bicycling and equestrian use—
 1. Apple Creek Conservation Area
 2. *[Rudolf]* Bennitt (**Rudolf**) Conservation Area
 3. Bonanza Conservation Area
 4. Bunch Hollow Conservation Area
 5. Canaan Conservation Area
 6. Caney Mountain Conservation Area
 7. Castor River Conservation Area
 8. Compton Hollow Conservation Area
 9. Daniel Boone Conservation Area
 10. Deer Ridge Conservation Area
 11. Fort Crowder Conservation Area
 12. *[Charlie]* Heath (**Charlie**) Memorial Conservation Area
 13. Holly Ridge Conservation Area
 14. Honey Creek Conservation Area
 15. Lead Mine Conservation Area
 16. Little Indian Creek Conservation Area
 17. Little Lost Creek Conservation Area
 18. Meramec Conservation Area
 19. Pleasant Hope Conservation Area
 20. Poosey Conservation Area (other than Green Hills Trail)
 21. Riverbreaks Conservation Area
 22. *[Henry]* Sever (**Henry**) Lake Conservation Area
 23. Sugar Creek Conservation Area
 24. *[Robert E.]* Talbot (**Robert E.**) Conservation Area
 25. University Forest Conservation Area

[(7)](6) Bicycling or equestrian use may be authorized by special use permit on the following department areas:

- (A) Atlanta Conservation Area
- (B) Current River Conservation Area
- (C) Fuson (**John Alva, MD**) Conservation Area
- (D) **Indian Hills Conservation Area**
- [(D)]*(E) Logan Creek Conservation Area
- [(E)]*(F) Marion Bottoms Conservation Area
- [(F)]*(G) Pony Express **Lake** Conservation Area
- [(G)]*(H) Ranacker Conservation Area
- [(H)]*(I) Shannon Ranch Conservation Area
- [(I)]*(J) Union Ridge Conservation Area (excluding Spring Creek Ranch Natural Area)
- [(J)]*(K) Whetstone Creek Conservation Area

[(8)](7) Equestrian use is not permitted on roads open to vehicular traffic on the following department areas:

- (A) Burr Oak Woods Conservation Area
- (B) Busch (August A.) Memorial Conservation Area
- (C) Cuivre Island Conservation Area
- (D) Marais Temps Clair Conservation Area
- (E) Powder Valley Conservation Nature Center
- (F) Rockwoods Reservation
- (G) Saint Stanislaus Conservation Area
- (H) Springfield Conservation Nature Center
- (I) Weldon Spring Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.135 Wild Plants, Plant Products, and Mushrooms. The commission proposes to amend subsection (1)(A), add paragraphs (1)(A)1.-7., and amend subsection (1)(B) of this rule

PURPOSE: This amendment reformats text for clarity and establishes regulations for a new education center in Joplin.

(1) Nuts, berries, fruits, edible wild greens, and mushrooms may be taken only for personal consumption, unless further restricted in this chapter.

(A) [On Cape Girardeau Conservation Campus Nature Center, Conservation Commission Headquarters, Powder Valley Conservation Nature Center, Runge Conservation Nature Center, Springfield Conservation Nature Center and Twin Pines Conservation Education Center, t]Taking of nuts, berries, fruits, edible wild greens, and mushrooms is prohibited.[.]
on the following department areas:

1. Cape Girardeau Conservation Nature Center
2. Conservation Commission Headquarters
3. Powder Valley Conservation Nature Center
4. Runge Conservation Nature Center
5. Shoal Creek Conservation Education Center
6. Springfield Conservation Nature Center
7. Twin Pines Conservation Education Center

(B) On Burr Oak Woods Conservation Area and Rockwoods Reservation[, taking of nuts, berries, fruits and edible wild greens is prohibited] **only mushrooms may be taken.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed March 6, 2006, effective Aug. 30, 2006. Amended: Filed Sept. 27, 2007, effective Feb. 29, 2008. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's

website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.140 Camping. The commission proposes to amend section (1), remove subsection (1)(B), and amend the authority section of this rule.

PURPOSE: This amendment clarifies and simplifies the Wildlife Code by removing unnecessary and outdated verbiage and corrects an inaccurate reference in the authority section of the rule.

(1) Camping is permitted only within areas designated by signs or brochures [or as provided in subsection (1)(B) of this rule]. Stays are limited to a period of fourteen (14) consecutive days in any thirty- (30-)[-] day period, with the period to commence the date the site is occupied or camping within any given department area first occurs. Personal property must be removed at the end of the fourteen- (14-)[-] day period. Total camping days on all department lands are limited to thirty (30) days within one (1) calendar year. Camping requests in excess of thirty (30) days within a calendar year may be granted with a special use permit. On those areas with established campsites, only two (2) camping or sleeping units are permitted in each site. Quiet hours are effective from 10:00 p.m. to 6:00 a.m. daily. Visitors who are not occupying a campsite are required to leave the campground by 10:00 p.m. Quiet hours are defined as the cessation of excessive noise from people or any mechanical device which causes disturbance to other campers. [Camping fees are required at some areas.] Groups of more than ten (10) people must obtain a special use permit prior to camping.

[(B) Persons traveling the Missouri River by boat may camp on any suitable site within one hundred (100) yards of the river and moor overnight adjacent to camp but outside the navigation channel between April 1 and September 30 on the following conservation areas:

1. Bob Brown Conservation Area
2. Columbia Bottom Conservation Area
3. Cooley Lake Conservation Area
4. Deroin Bend Conservation Area
5. Diana Bend Conservation Area
6. Dupree Memorial Conservation Area
7. Eagle Bluffs Conservation Area
8. Grand Pass Conservation Area
9. Howell Island Conservation Area
10. Lower Hamburg Bend Conservation Area
11. Marion Bottoms Conservation Area
12. Monkey Mountain Conservation Area
13. Nishnabotna Conservation Area
14. Pelican Island Natural Area
15. Plowboy Bend Conservation Area
16. Rush Bottoms Conservation Area
17. Saint Stanislaus Conservation Area
18. Smoky Waters Conservation Area
19. Tate Island Conservation Area
20. H.F. Thurnau Conservation Area
21. Weldon Spring Conservation Area
22. Wolf Creek Bend Conservation Area
23. Worthwine Island Conservation Area]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section

[252.240] 252.040, RSMo [2000] 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.145 Tree Stands. The commission proposes to amend this rule.

PURPOSE: This amendment clarifies when and where tree stands may be used on department areas.

Only portable tree stands are allowed and only from September 1 through January 31 **on areas where deer hunting is allowed, by special use permit, or except as otherwise authorized in 3 CSR 10-11.181 Turkeys: Special Hunts and 3 CSR 10-11.182 Deer Hunting of this chapter.** Unattended stands must be plainly labeled on a durable material with the full name and address, or Conservation Number, of the owner and be removed from the area before February 1. Use of nails, screw-in steps, and any material or method that would damage the tree is prohibited.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective March 1, 2003. Amended: Filed Sept. 29, 2004, effective Feb. 28, 2005. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.155 Decoys and Blinds. The commission proposes to amend section (1) of this rule.

PURPOSE: This amendment clarifies rules regarding temporary blinds on conservation areas by specifying that they must be removed from the area daily.

(1) Decoys and blinds are permitted but must be *[disassembled and]* removed **from the area daily and may not be left unattended between the hours of 10:00 p.m. and 4:00 a.m.**, except as otherwise provided in this chapter. Blinds may not be constructed on-site from woody vegetation except for willows (*Salicaceae* spp.).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.160 Use of Boats and Motors. The commission proposes to amend paragraphs (1)(A)1.-4.; add subparagraphs (1)(A)1.A.-D. and (1)(A)4.A.-B.; and amend the authority section of this rule.

PURPOSE: This amendment includes airboats as a type of watercraft prohibited on department areas, adds one (1) conservation area to the list of areas where boats are prohibited, standardizes the format used for conservation area names, and corrects an inaccurate reference in the authority section of the rule.

(1) Boats (including sailboats) may be used on lakes and ponds except as further restricted in this chapter. Boats may not be left unattended overnight. Houseboats, **airboats**, and personal watercraft as defined in section 306.010, RSMo, are prohibited. Float tubes may be used for authorized fishing and hunting activities. Registration and a fee may be required for rental of department-owned boats. Fees shall be paid prior to use.

(A) Except as provided below, only electric motors are permitted on lakes and ponds of less than seventy (70) acres. Electric motors and outboard motors are permitted on lakes of seventy (70) or more acres and on certain areas in conjunction with waterfowl hunting, except as otherwise provided in paragraph (1)(A)2. of this rule. Outboard motors in excess of ten (10) horsepower must be operated at slow, no-wake speed, except as otherwise provided in paragraph (1)(A)3. of this rule.

1. *[On August A. Busch Memorial Conservation Area, Blind Pony Lake Conservation Area, Hunnewell Lake Conservation Area, and James A. Reed Memorial Wildlife Area, o/Only department-owned boats may be used, [and] only electric motors are permitted./], and the [U/use of float tubes is specifically prohibited./] on the following department areas:*

- A. Blind Pony Lake Conservation Area
- B. Busch (August A.) Memorial Conservation Area
- C. Hunnewell Lake Conservation Area
- D. Reed (James A.) Memorial Wildlife Area

2. On *[Robert G.] DeLaney (Robert G.) Lake Conservation Area*, only electric motors are permitted.

3. On *Thomas Hill Reservoir Conservation Area*, houseboats are prohibited at all times, and all boating is prohibited on the main arm of the lake above Highway T from October 15 through January 15. No other restrictions in this section apply to this area.

4. *[On Bellefontaine Conservation Area, b/Boats are prohibited./] on the following department areas:*

- A. Bellefontaine Conservation Area
- B. Weldon Spring Conservation Area (lakes and ponds)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section [252.240] 252.040, RSMo [2000] 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.180 Hunting, General Provisions and Seasons. The commission proposes to amend sections (1), (3), and (4); delete subsections (4)(D)–(E), (4)(L)–(M), (4)(O), (4)(Q)–(4)(W), (4)(Y), (4)(BB), (4)(EE), (4)(HH), (4)(KK), (4)(SS)–(VV), (4)(ZZ)–(BBB), (4)(GGG), (4)(III), (4)(OOO)–(PPP), (4)(RRR)–(VVV), (4)(AAAA), (4)(DDDD), (4)(FFFF), (4)(KKKK)–(LLLL), (4)(NNNN), (4)(PPPP), (4)(RRRR), (4)(TTTT), (4)(VVVV)–(XXXX), (4)(FFFFF), (4)(HHHHH), and (4)(MMMMM); add new subsections (4)(N), (4)(HH), and (4)(FFF); re-letter subsequent subsections; amend new subsections (4)(D), (4)(J), (4)(M), (4)(T),

(4)(X)–(Z), (4)(EE), (4)(GGG), (4)(JJJ), (4)(MMM), and (4)(YYY)–(ZZZ); amend section (5); remove subsections (5)(S), (5)(SS), (5)(JJJ); add new subsections (5)(R), (5)(QQ), and (5)(XX); re-letter subsequent subsections; amend new subsections (5)(G), (5)(P), (5)(S), (5)(W)–(X), (5)(BB), (5)(HH), (5)(KK)–(LL), (5)(TT), (5)(YY), and (5)(HHH); amend section (6) and subsections (6)(A), (6)(C), (7)(B), (7)(D), and (7)(F); add new subsections (8)(A), (8)(D), (8)(H)–(J), (8)(M)–(N), (8)(U), (8)(X), (8)(AA)–(CC), and (8)(HH)–(KK); re-letter subsequent subsections; amend new subsections (8)(C), (8)(R), and (8)(FF); amend section (10); delete subsections (10)(B)–(D); add new subsections (10)(B)–(C); delete sections (11), (12), (15), and (20); renumber subsequent sections; amend new section (11) and subsections (11)(A)–(C); add subsections (11)(D)–(E); amend new sections (13), (14), (15), and (16); remove subsection (16)(A); add new subsection (16)(C); re-letter and amend subsequent subsections of this rule.

PURPOSE: This amendment places a restriction on the use of lead shot on areas prone to flooding, establishes hunting regulations on specific areas, clarifies and simplifies the Wildlife Code by removing unnecessary or outdated verbiage, and standardizes the format used for conservation area names.

(1) Hunting is permitted on department areas, except as further restricted by signs, area brochures, or this chapter **and except turkey and deer hunting are allowed as authorized in 3 CSR 10-11.181 Turkeys: Special Hunts and 3 CSR 10-11.182 Deer Hunting of this chapter.** Unless otherwise provided in this chapter **or by managed hunt**, statewide permits, seasons, methods, and limits apply. A valid area daily hunting tag may be required in addition to statewide permits.

(3) *[Hunting is prohibited on public fishing access areas less than forty (40) acres in size except for deer and turkey hunting as authorized in the current Fall Deer & Turkey Hunting Regulations and Information booklet published in August and the current Spring Turkey Hunting Regulations and Information booklet published in March, which are hereby incorporated in this Code by reference. A printed copy of these booklets can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and are also available online at www.missouriconservation.org. This rule does not incorporate any subsequent amendments or additions.] Except for deer and turkey hunting as authorized in 3 CSR 10-11.181 Turkeys: Special Hunts and 3 CSR 10-11.182 Deer Hunting of this chapter, hunting is prohibited on outdoor education sites, conservation education center sites, nature center sites, and any of the following areas that are less than forty (40) acres in size: public fishing accesses, radio facilities, office sites, tower sites, cave sites, and staffed shooting ranges.*

(4) Hunting is prohibited on the following department areas except for deer and turkey hunting as authorized in *[the annual Fall Deer & Turkey Hunting Regulations and Information booklet and annual Spring Turkey Hunting Regulations and Information booklet]* 3 CSR 10-11.181 Turkeys: Special Hunts and 3 CSR 10-11.182 Deer Hunting of this chapter:

- [(D)] Ava Forestry Office*
- [(E)] Bat Cave Conservation Area*
- [(F)](D) [August G.] Beckemeier (August G.) Conservation Area*
- [(G)](E) Bellefontaine Conservation Area*
- [(H)](F) Bicentennial Conservation Area*
- [(I)](G) Binder Community Lake*
- [(J)](H) Bird's Blue Hole*
- [(K)](I) Bittern Bottoms Conservation Area*
- [(L)] Lois Arlene Boesl Outdoor Educational Area*
- [(M)] Bolivar Forestry Office*

[(N)](J) [Marguerite] Bray (Marguerite) Conservation Area
[(O) Buffalo Radio Facility]
[(P)](K) Burr Oak Woods Conservation Area
[(Q)](L) Caldwell Memorial Wildlife Area
[(R) Camdenton Conservation Service Center]
[(S) Cape Girardeau Conservation Campus Nature Center]
[(T) Central Regional Office and Conservation Research Center]
[(U) Clearwater District Headquarters]
[(V) Climax Springs Towersite]
[(W) Clinton Office]
[(X) Conservation Commission Headquarters]
[(Y)](M) [Robert G.] DeLaney (Robert G.) Lake Conservation Area
[(Z) Doniphan Towersite]
(N) Dripping Springs Natural Area
[(AA)](O) Drovers Prairie Conservation Area
[(BB)](P) Engelmann Woods Natural Area
[(CC) Eugene Towersite]
[(DD)](Q) Forest 44 Conservation Area
[(EE)](R) Foxglove Conservation Area
[(FF) Friendly Prairie Conservation Area]
[(GG)](S) Gay Feather Prairie Conservation Area
[(HH)](T) Goodson [(Bittersweet Woods)] (Jean and Joan) Conservation Area
[(II) Grandpa Chipley's Conservation Area]
[(JJ)](U) Gravois Creek Conservation Area
[(KK)](V) Gravois Mills Access
[(LL) Great Spirit Cave Conservation Area]
[(MM)](W) Grundy Memorial Wildlife Area
[(NN)](X) [Ronald and Maude] Hartell (Ronald and Maude) Conservation Area
[(OO)](Y) [James R.] Harter (James R.) Conservation Area
[(PP)](Z) [Ruth and Paul] Henning (Ruth and Paul) Conservation Area
[(QQ)](AA) Hickory Canyons Natural Area
[(RR)](BB) Hickory Woods Conservation Area
[(SS)](CC) Hinkson Woods Conservation Area
[(TT) Houston Forestry Office]
[(UU) Hurley Radio Facility]
[(VV) Jefferson City Radio Facility]
[(WW) Joplin Towersite]
[(XX)](DD) Juden Creek Conservation Area
[(YY)](EE) [Roger] Klamburg (Roger) Woods Conservation Area
[(ZZ)](FF) La Petite Gemme Prairie Conservation Area
[(AAA) Lebanon Forestry Office]
[(BBB) Lebanon Towersite]
[(CCC) Lenox Towersite]
[(DDD)](GG) Lichen Glade Conservation Area
(HH) Lily Pond Natural Area
[(EEE)](II) Limpp Community Lake
[(FFF)](JJ) Lipton Conservation Area
[(GGG)](KK) Little Osage Prairie
[(HHH) Lower Taum Sauk Lake]
[(III)](LL) Malta Bend Community Lake
[(JJJ) Mansfield Shop]
[(KKK)](MM) Maple Flats Access
[(LLL)](NN) Maple Woods Natural Area
[(MMM)](OO) Miller Community Lake
[(NNN)](PP) Mint Spring Conservation Area
[(OOO)](QQ) Mount Vernon Prairie
[(PPP) Neosho District Headquarters]
[(QQQ) New Madrid Forestry Office]
[(RRR)](RR) Niawathe Prairie Conservation Area
[(SSS) Northeast Regional Office]
[(TTT) Northwest Regional Office]
[(UUU) Norwood Shop]
[(VVV) Onyx Cave Conservation Area]
[(WWW) Ozark Regional Office]

[(XXX)](SS) Parma Woods Range and Training Center (south portion)
[(YYY)](TT) Pawhuska Prairie
[(ZZZ)](UU) Pelican Island Natural Area
[(AAAA)](VV) Perry County Community Lake
[(BBBB) Perryville District Headquarters]
[(CCCC)](WW) Phantom Forest Conservation Area
[(DDDD)](XX) Pickle Springs Natural Area
[(EEEE) Plad Towersite]
[(FFFF)](YY) Port Hudson Lake Conservation Area
[(GGGG) Powder Valley Conservation Nature Center]
[(HHHH)](ZZ) Ray County Community Lake
[(IIII)](AAA) Rocheport Cave Conservation Area
[(JJJJ)](BBB) Rockwoods Range
[(KKKK)](CCC) Rockwoods Reservation
[(LLLL) Rolla Office]
[(MMMM) Runge Conservation Nature Center]
[(NNNN)](DDD) Rush Creek Conservation Area
[(OOOO) Ryden Cave Conservation Area]
[(PPPP)](EEE) Saeger Woods Conservation Area
(FFF) Saint Stanislaus Conservation Area
[(QQQQ) Salem Maintenance Center]
[(RRRR)](GGG) [F. O. and Leda J.] Sears (F. O. and Leda J.) Memorial Wildlife Area
[(SSSS) Sedalia Office]
[(TTTT)](HHH) Shawnee Mac Lakes Conservation Area
[(UUUU) Shepherd of the Hills Fish Hatchery]
[(VVVV)](III) Sims Valley Community Lake
[(WWWW) Southeast Regional Office]
[(XXXX) Southwest Regional Office]
[(YYYY) Springfield Conservation Nature Center]
[(ZZZZ)](JJJ) [Julian] Steyermark (Julian) Woods Conservation Area
[(AAAAA)](KKK) Teszars Woods Conservation Area
[(BBBBB)](LLL) Thirtyfour Corner Blue Hole
[(CCCCC)](MMM) [Robert H.] Thompson (Robert H.) Conservation Area
[(DDDDD)](NNN) Tower Rock Natural Area
[(EEEEE)](OOO) Truman Reservoir Management Lands (designated portion of the Grand River Bottoms Wildlife Management Area)
[(FFFFFF)](PPP) Twin Borrow Pits Conservation Area
[(GGGGG) Twin Pines Conservation Education Center]
[(HHHHH)](QQQ) Tywappity Community Lake
[(IIII) Ulman Towersite]
[(JJJJJ)](RRR) Upper Mississippi Conservation Area (Clarksville Refuge)
[(KKKKK)](SSS) Wah'Kon-Tah Prairie (portion south of Highway 82)
[(LLLLL)](TTT) Wah-Sha-She Prairie
[(MMMMM)](UUU) Walnut Woods Conservation Area
[(NNNNN) Warrenton Office]
[(OOOOO)](VVV) White Alloe Creek Conservation Area
[(PPPPP)](WWW) Wildcat Glade Natural Area
[(QQQQQ)](XXX) Wild Cherry Ridge Conservation Area
[(RRRRR)](YYY) [Walter] Woods (Walter) Conservation Area
[(SSSSS)](ZZZ) [Mark] Youngdahl (Mark) Urban Conservation Area

(5) Firearms firing single projectiles are prohibited on the following department areas except for deer hunting as authorized in *[the annual Fall Deer & Turkey Hunting Regulations and Information booklet]* **3 CSR 10-11.182 Deer Hunting of this chapter:**

(G) [Gerhild and Graham] Brown (Gerhild and Graham) Conservation Area
(P) [Arthur] Dupree (Arthur) Memorial Conservation Area
(R) Earthquake Hollow Conservation Area
[(R)](S) [Peter A.] Eck (Peter A.) Conservation Area
[(S) Earthquake Hollow Conservation Area]

- (W) *[Larry R.]* Gale (**Larry R.**) Access
(X) *[Myron and Sonya]* Glassberg (**Myron and Sonya**) Family Conservation Area
(BB) *[The]* Lewis (**The**) Family, Dean, Anna Mae and David D. Lewis Memorial Conservation Area
(HH) *[Caroline Sheridan]* Logan (**Caroline Sheridan**) Memorial Wildlife Area
(KK) *[William]* Lowe (**William**) Conservation Area
(LL) *[Alice Ahart]* Mansfield *[Memorial]* (**Alice Ahart**) Conservation Area
(QQ) **Noser Mill Conservation Area**
[(OQ)](RR) Pacific Palisades Conservation Area
[(RR)](SS) Parma Woods Range and Training Center (south portion)
[(SS)] *Pelican Island Natural Area*
(TT) *[James A.]* Reed (**James A.**) Memorial Wildlife Area
(XX) **Shelton (Wade and June) Memorial Conservation Area**
[(XX)](YY) *[Dr. O. E. and Eloise]* Sloan (**Dr. O. E. and Eloise**) Conservation Area
[(YY)](ZZ) Sterling Price Community Lake
[(ZZ)](AAA) Sunbridge Hills Conservation Area
[(AAA)](BBB) Swift Ditch Access
[(BBB)](CCC) Tipton Ford Access
[(CCC)](DDD) Treaty Line Prairie Conservation Area
[(DDD)](EEE) Tri-City Community Lake
[(EEE)](FFF) Valley View Glades Natural Area
[(FFF)](GGG) Vandalia Community Lake *[Conservation Area]*
[(GGG)](HHH) *[Archie and Gracie]* VanDerhoef (**Archie and Gracie**) Memorial State Forest
[(HHH)](III) Victoria Glades Conservation Area
[(III)](JJJ) Vonaventure Memorial Forest and Wildlife Area
[(JJJ)] *Wade and June Shelton Memorial Conservation Area*
- (6) Firearms firing single projectiles are prohibited, except *[during managed deer hunts,]* for deer as authorized in **3 CSR 10-11.182 Deer Hunting of this chapter**, and except furbearers treed with the aid of dogs may be taken with a twenty-two (.22) or smaller caliber rimfire firearm on the following department areas:
(A) *[August A.]* Busch (**August A.**) Memorial Conservation Area
(C) Truman Reservoir *[ML]* **Management Lands** (Designated portion of the Grand River Bottoms Wildlife Management Area)
- (7) Firearms hunting is prohibited on the following department areas:
(B) *[Jim]* Bridger (**Jim**) Urban Conservation Area
(D) *[J. Thad]* Ray (**J. Thad**) Memorial Wildlife Area
(F) *[Henry Jackson]* Waters (**Henry Jackson**) and C.B. Moss Memorial Wildlife Area
- (8) Use or possession of lead shot is prohibited for hunting on the following department areas:
(A) **Aspinwall Bend Conservation Area**
[(A)](B) Black Island Conservation Area
[(B)](C) *[Bob]* Brown (**Bob**) Conservation Area
(D) **Church Farm Conservation Area**
[(C)](E) Columbia Bottom Conservation Area
[(D)](F) Cooley Lake Conservation Area
[(E)](G) Coon Island Conservation Area
(H) **Corning Conservation Area**
(I) **Deroin Bend Conservation Area**
(J) **Diana Bend Conservation Area**
[(F)](K) Duck Creek Conservation Area
[(G)](L) Eagle Bluffs Conservation Area
(M) **Franklin Island Conservation Area**
(N) **Frost Island Conservation Area**
[(H)](O) Fountain Grove Conservation Area
[(I)](P) Four Rivers Conservation Area (August A. Busch, Jr. Memorial Wetlands at)

- [(J)]*(Q) Grand Pass Conservation Area
[(K)](R) *[B. K.]* Leach (**B. K.**) Memorial Conservation Area
[(L)](S) Little Bean Marsh Conservation Area
[(M)](T) Little River Conservation Area
(U) **Lower Hamburg Bend Conservation Area**
[(N)](V) Marais Temps Clair Conservation Area
[(O)](W) Montrose Conservation Area
(X) **Nishnabotna Conservation Area**
[(P)](Y) Nodaway Valley Conservation Area
[(Q)](Z) Otter Slough Conservation Area
(AA) **Perry (Ralph and Martha) Conservation Area**
(BB) **Platte Falls Conservation Area**
(CC) **Plowboy Bend Conservation Area**
[(R)](DD) Schell-Osage Conservation Area
[(S)](EE) Settle's Ford Conservation Area
[(T)](FF) *[Ted]* Shanks (**Ted**) Conservation Area
[(U)](GG) Ten Mile Pond Conservation Area
(HH) **Thurnau (H. F.) Conservation Area**
(II) **Rose Pond Conservation Area**
(JJ) **Rush Bottom Conservation Area**
(KK) **Wolf Creek Conservation Area**

(10) On *[August A.]* Busch (**August A.**) Memorial Conservation Area—

[(B)] *Squirrels may be hunted only with shotgun from the fourth Saturday in May through October 15 and from January 1 through February 15;*

[(C)] *Groundhogs may be hunted only with shotgun from the day following the prescribed spring turkey hunting season through October 15; and*

[(D)] *Furbearers treed with the aid of dogs may be taken using any prescribed method during the prescribed furbearer season, except that—*

1. *Coyotes may be taken only by shotgun; from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset from the fourth Saturday in May through September 30 and from December 15 through March 31;*

2. *Furbearers other than coyotes not treed with the aid of dogs may be taken only by shotgun from December 15 through the end of the prescribed furbearer season; and*

3. *All furbearers may be taken during managed deer hunts that coincide with the prescribed furbearer season using methods allowed for deer by participants holding a valid managed deer hunting permit and the prescribed permit for taking furbearers.]*

(B) **Furbearers other than coyotes not treed with the aid of dogs may be taken only by shotgun during the prescribed season; and**

(C) **All furbearers may be taken during managed deer hunts that coincide with the prescribed furbearer season using methods allowed for deer by participants holding a valid managed deer hunting permit and the prescribed permit for taking furbearers.**

[(11)] *On James A. Reed Memorial Wildlife Area -*

[(A)] *Rabbits, squirrels, and crows may be taken between sunrise and sunset from December 1 through the end of the statewide season by holders of a valid area daily hunting tag;*

[(B)] *Furbearer hunting may be authorized by special use permit, except furbearers may be taken during managed deer hunts that coincide with the prescribed furbearer season using methods allowed for deer by participants holding a valid managed deer hunting permit and the prescribed permit for taking furbearers.*

[(12)] *On Marais Temps Clair Conservation Area—*

[(A)] *Rabbit, pheasant, woodcock, squirrel, groundhog, furbearer, and crow hunting is prohibited; and*

[(B)] *All hunters must possess a valid area daily hunting tag.]*

[[13]](11) Hunting is permitted on the following department areas only *[during managed hunts or]* by holders of a valid area daily hunting tag or as authorized in 3 CSR 10-11.181 Turkeys: **Special Hunts and 3 CSR 10-11.182 Deer Hunting of this chapter:**

- (A) Columbia Bottom Conservation Area[;]
- (B) Forest 44 Conservation Area[; and]
- (C) *[Charles W.] Green (Charles W.) Conservation Area[.]*
- (D) Marais Temps Clair Conservation Area
- (E) Reed (James A.) Memorial Wildlife Area

1. Rabbits, squirrels, and crows may be taken between sunrise and sunset from December 1 through the end of the statewide season except furbearers may be taken during managed deer hunts that coincide with the prescribed furbearer season using methods allowed for deer by participants holding a valid managed deer hunting permit and the prescribed permit for taking furbearers.

[[14]](12) On Lake Girardeau Conservation Area, firearms firing a single projectile are prohibited, except a twenty-two (.22) caliber or smaller rimfire firearm may be used from November 1 through April 1.

[[15] Hunting of wildlife other than waterfowl is prohibited, except in designated areas, from October 15 through the prescribed waterfowl season on the following department areas:

- (A) Bob Brown Conservation Area
- (B) Columbia Bottom Conservation Area
- (C) Coon Island Conservation Area
- (D) Duck Creek Conservation Area
- (E) Eagle Bluffs Conservation Area
- (F) Fountain Grove Conservation Area
- (G) Grand Pass Conservation Area
- (H) Marais Temps Clair Conservation Area
- (I) Montrose Conservation Area
- (J) Nodaway Valley Conservation Area
- (K) Otter Slough Conservation Area
- (L) Schell-Osage Conservation Area
- (M) Ted Shanks Conservation Area
- (N) Ten Mile Pond Conservation Area]

[[16]](13) On the portion of Nodaway River bordered by the portion of Nodaway Valley Conservation Area which has been designated a waterfowl refuge, all hunting is prohibited from October 15 through *[the end of the prescribed waterfowl season]* **March 1.**

[[17]](14) On *[B. K.] Leach (B. K.) Memorial Conservation Area*, hunting of wildlife other than waterfowl is allowed during prescribed seasons, except that from October 15 through the end of the *[prescribed waterfowl]* **appropriate zone's duck** season other wildlife may be hunted only by archery methods and only in designated areas.

[[18]](15) On *[Dan and Maureen] Cover (Dan and Maureen) Prairie Conservation Area [and Carrick W. Davidson – Robert G. Paris Wildlife Area]*, rabbits may not be chased, pursued, or taken during the prescribed quail hunting season.

[[19]](16) Firearms firing single projectiles larger than twenty-two (.22) caliber rimfire are prohibited on the following areas except for deer hunting as authorized in *[the annual Fall Deer & Turkey Hunting Regulations and Information booklet]* **3 CSR 10-11.182 Deer Hunting of this chapter:**

- [(A) Anthony and Beatrice Kendzora Conservation Area;]*
- [(B)](A) Church Farm Conservation Area[;]*
- [(C)](B) Horton Farm Conservation Area[;]*
- (C) Kendzora (Anthony and Beatrice) Conservation Area**
- (D) Montrose Conservation Area[;]
- (E) *[Guy B.] Park (Guy B.) Conservation Area[; and]*

(F) Platte Falls Conservation Area[.]

[[20] On *Saint Stanislaus Conservation Area*, hunting is permitted only during managed hunts or by holders of a valid area daily hunting tag, except that persons pursuing deer and fall turkey by archery methods are not required to possess a valid area daily hunting tag.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

PRIVATE COST: At this time, it is not known if this proposed amendment will cost private entities more than five hundred dollars (\$500) in the aggregate. The number of small game and turkey hunters on a given conservation area is not tracked. Currently, the price difference in lead shot for dove hunting and non-toxic shot for dove hunting varies from the same price per box to approximately twenty percent (20%) higher for non-toxic shot. According to the National Dove Hunter Survey in 2014, ninety-five percent (95%) of individual dove hunters spend less than two hundred dollars (\$200) annually with eighty-two percent (82%) spending less than one hundred dollars (\$100) annually for dove hunting ammunition. This regulation impacts hunters utilizing these conservation areas, and we estimate each hunter will only use an average of one (1) box of shells. The increase cost per hunter is one dollar and forty cents (\$1.40) per box which would equal one thousand eight hundred twelve dollars (\$1,812).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

FISCAL NOTE
PRIVATE COST

- I. Department Title: Title 3 - Department of Conservation
Division Title: Division 10 – Conservation Commission
Chapter Title: Chapter 11 – Wildlife Code: Special Regulations for Department Areas

| | |
|------------------------|---|
| Rule Number and Title: | 3 CSR 10-11.180 Hunting, General Provisions and Seasons |
| Type of Rulemaking: | Proposed Amendment |

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|---|--|--|
| Unknown | Sporting Goods Dealers | Unknown, at this time it is not expected to alter the amount of ammunition they sell but it will alter the type of ammunition they sell for dove hunting |
| Unknown | Dove Hunters on Conservation Areas listed in the proposed rule | Non-toxic shot for dove hunting is available at the same, or nearly the same price as lead shot. |

III. WORKSHEET

20% (Estimated increase of steel over lead) X \$7.00/box (current price on internet with large retailer) = \$1.40

1,294 (Average number of dove hunters at conservation areas around the state, during September) X \$1.40= \$1,812

IV. ASSUMPTIONS

None of the areas listed in the proposed rule have mandatory check-in for dove hunting which makes it impossible to get an accurate calculation. Less popular areas could accommodate zero to hundreds dove hunters. Popular areas listed in the proposed rule could have several hundred hunters for the first week and then less than an additional hundred hunters throughout the remainder of the season. During wet years, many of the areas would have no active dove management.

- The number of hunters on each area is variable.
- Calculations are based on one box of shells per hunter. Some hunters will shoot more, and some will shoot less.
- The number of dove hunters has the potential to decrease the first year of the regulation if shot is not available or is considerably higher priced than lead shot.
- With sale prices, hunters can purchase steel shot for nearly the same price as lead. The increase shown here in a maximum fiscal impact.
- Industry will be able to provide non-lead shot to meet demand.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.184 Quail Hunting. The commission proposes to remove subsection (2)(C), re-letter subsequent subsections, amend section (3), remove subsections (3)(A)–(B), amend subsection (4)(B), amend section (5), remove subsections (5)(A)–(B), amend subsection (6)(A), remove subsections (6)(B) and (6)(D), re-letter a subsequent subsection, amend new subsection (6)(B), and amend the authority section of this rule.

PURPOSE: This amendment offers additional opportunities on public land, standardizes the format used for conservation area names, and corrects an inaccurate reference in the authority section of the rule

(2) Quail may be taken only by holders of the prescribed hunting permit and a valid area daily hunting tag, and hunters must check out immediately after the close of their hunting trip on the following department areas:

- (A) Bunch Hollow Conservation Area
- (B) Crowleys Ridge Conservation Area
- ~~[(C) Davisdale Conservation Area]~~
- ~~[(D)](C) Maintz Wildlife Preserve~~
- ~~[(E)](D) [Emmett and Leah] Seat (Emmett and Leah) Memorial Conservation Area~~

(3) **On Whetstone Creek Conservation Area** [Q]quail hunting is permitted only through December 15 [on the following department areas:].

- [(A) Dr. O.E. and Eloise Sloan Conservation Area
- (B) Whetstone Creek Conservation Area]

(4) Quail hunting is permitted only through December 15 by holders of the prescribed hunting permit and a valid area daily hunting tag, and hunters must check out immediately after the close of their hunting trip on the following department areas:

- (B) [Robert E.] Talbot (Robert E.) Conservation Area

(5) **On Cover (Dan and Maureen) Prairie Conservation Area** [Q]quail hunting is permitted only by holders of the prescribed hunting permit who have been selected to participate in the area's managed quail hunts [on the following department areas:].

- [(A) Dan and Maureen Cover Prairie Conservation Area
- (B) Carrick W. Davidson – Robert G. Paris Wildlife Area]

(6) Quail hunting is prohibited on the following department areas:

- (A) [August A.] Busch (August A.) Memorial Conservation Area
- ~~[(B) Marais Temps Clair Conservation Area]~~
- ~~[(C)](B) [James A.] Reed (James A.) Memorial Wildlife Area~~
- ~~[(D) Saint Stanislaus Conservation Area]~~

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section [252.240] 252.040, RSMo [2000] 2016. Original rule filed Oct. 10, 2008, effective April 30, 2009. Amended: Filed Sept. 27, 2013, effective March 1, 2014. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.185 Dove Hunting. The commission proposes to amend paragraphs (2)(A)1. and (2)(A)3.–6., remove paragraph (2)(B)3., renumber a subsequent paragraph, amend subsection (2)(D), and add a new section (3) to this rule.

PURPOSE: This amendment places a restriction on the use of lead shot on conservation areas that receive heavy hunting pressure, clarifies and simplifies the Wildlife Code by removing unnecessary and outdated verbiage, and standardizes the format used for conservation area names.

(2) On the following areas, during the month of September, dove hunters must possess a valid area daily hunting tag while hunting and must accurately report their harvest immediately upon completing their hunting trip:

(A) Dove hunting is permitted during legal shooting hours in accordance with statewide regulations:

1. [August A.] Busch (August A.) Memorial Conservation Area
2. Bois D'Arc Conservation Area
3. [William R.] Logan (William R.) Conservation Area
4. Pony Express Lake Conservation Area
5. [Robert E.] Talbot (Robert E.) Conservation Area
6. [William G. and Erma Parke] White (William G. and Erma Parke) Memorial Wildlife Area

(B) Dove hunting is permitted by managed hunt during the first seven (7) days and during legal shooting hours for the entire dove hunting season:

1. Eagle Bluffs Conservation Area
2. Marais Temps Clair Conservation Area
- ~~[3. Otter Slough Conservation Area]~~
- ~~[4.]3. Ten Mile Pond Conservation Area~~

(D) On [James A.] Reed (James A.) Memorial Wildlife Area, dove hunting is permitted only by managed hunt during the first seven (7) days of the dove hunting season, except that dove hunting is prohibited on Labor Day and the weekend immediately preceding. Shooting hours are from 1:00 p.m. to sunset for the entire season.

(3) Use or possession of lead shot is prohibited for hunting doves on the following department areas:

- (A) Bilby Ranch Lake Conservation Area
- (B) Bois D'Arc Conservation Area
- (C) Busch (August A.) Memorial Conservation Area
- (D) Crowley's Ridge Conservation Area
- (E) Davisdale Conservation Area
- (F) Harmony Mission Lake Conservation Area
- (G) Lamine River Conservation Area
- (H) Logan (William R.) Conservation Area
- (I) Maintz Wildlife Preserve
- (J) Pacific Palisades Conservation Area
- (K) Park (Guy B.) Conservation Area
- (L) Peabody Conservation Area

- (M) Pony Express Lake Conservation Area
- (N) Reed (James A.) Memorial Wildlife Area
- (O) Reform Conservation Area
- (P) Talbot (Robert E.) Conservation Area
- (Q) Truman Reservoir Management Lands (Bethlehem)
- (R) Weldon Spring Conservation Area
- (S) Whetstone Creek Conservation Area
- (T) White (William G. and Erma Parke) Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Material covered in this rule previously filed as 3 CSR 10-11.180. Original rule filed Sept. 12, 2011, effective March 1, 2012. Amended: Filed Sept. 27, 2013, effective March 1, 2014. Amended: Filed Aug. 29, 2016, effective March 1, 2017. Amended: Filed Aug. 28, 2018.

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

PRIVATE COST: At this time, it is not known if this proposed amendment will cost private entities more than five hundred dollars (\$500) in the aggregate. The number of small game and turkey hunters on a given conservation area is not tracked. Currently, the price difference in lead shot for dove hunting and non-toxic shot for dove hunting varies from the same price per box to approximately twenty percent (20%) higher for non-toxic shot. According to the National Dove Hunter Survey in 2014, ninety-five percent (95%) of individual dove hunters spend less than two hundred dollars (\$200) annually with eighty-two percent (82%) spending less than one hundred dollars (\$100) annually for dove hunting ammunition. This regulation impacts hunters utilizing these conservation areas, and we estimate each hunter will only use an average of one (1) box of shells. The increase cost per hunter is one dollar and forty cents (\$1.40) per box.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**FISCAL NOTE
 PRIVATE COST**

- I. Department Title: Title 3 - Department of Conservation
 Division Title: Division 10 – Conservation Commission
 Chapter Title: Chapter 11 – Wildlife Code: Special Regulations for Department Areas**

| | |
|-------------------------------|------------------------------|
| Rule Number and Title: | 3 CSR 10-11.185 Dove Hunting |
| Type of Rulemaking: | Proposed Amendment |

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|---|--|--|
| Unknown | Sporting Goods Dealers | Unknown, at this time it is not expected to alter the amount of ammunition they sell but it will alter the type of ammunition they sell for dove hunting |
| Unknown | Dove Hunters on Conservation Areas listed in the proposed rule | Non-toxic shot for dove hunting is available at the same, or nearly the same price as lead shot. |

III. WORKSHEET

20% (Estimated increase of steel over lead) X \$7.00/box (current price on internet with large retailer) = \$1.40

7,827 (Average number of dove hunters at conservation areas around the state, during September) X \$1.40= \$10,958

IV. ASSUMPTIONS

None of the areas listed in the proposed rule have mandatory check-in for dove hunting which makes it impossible to get an accurate calculation. Less popular areas could accommodate zero to hundreds dove hunters. Popular areas listed in the proposed rule could have several hundred hunters for the first week and then less than an additional hundred hunters throughout the remainder of the season. During wet years, many of the areas would have no active dove management.

- The number of hunters on each area is variable.
- Calculations are based on one box of shells per hunter. Some hunters will shoot more, and some will shoot less.
- The number of dove hunters has the potential to decrease the first year of the regulation if shot is not available or is considerably higher priced than lead shot.
- With sale prices, hunters can purchase steel shot for nearly the same price as lead. The increase shown here in a maximum fiscal impact.
- Industry will be able to provide non-lead shot to meet demand.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.186 Waterfowl Hunting. The commission proposes to amend subsections (3)(B), (3)(J), (3)(O), (3)(P), (3)(R), section (4), subsections (4)(A), (4)(F), (4)(H), (4)(N), and section (6); add subsections (6)(A)–(E); remove section (8) and renumber subsequent sections; amend new section (9) and add new subsections (9)(A)–(C); and amend section (10) of this rule.

PURPOSE: This amendment clarifies and simplifies the Wildlife Code by removing unnecessary and outdated verbiage, reformats text for clarity, and standardizes the format used for conservation area names.

(3) Waterfowl hunting is prohibited after 1:00 p.m. on designated portions of the following department areas:

- (B) [Bob] Brown (**Bob**) Conservation Area
- (J) [B. K.] Leach (**B. K.**) Memorial Conservation Area
- (O) [James A.] Reed (**James A.**) Memorial Wildlife Area
- (P) Pony Express **Lake** Conservation Area
- (R) [Ted] Shanks (**Ted**) Conservation Area

(4) Waterfowl may be taken on the department areas listed below only by holders of a valid area Daily Waterfowl Hunting Tag and only from a blind or in a designated area, except that hunters may retrieve dead birds and pursue and shoot downed cripples outside the designated area. Waterfowl hunters must check out immediately after the close of their hunting trip and prior to processing birds by accurate completion and return of the Daily Waterfowl Hunting Tag to designated locations. These department areas are closed to waterfowl hunting on December 25. [Only authorized persons are allowed within the waterfowl shooting areas during the waterfowl hunting season. Portions of these department areas may be open to fishing during all or part of the waterfowl season.]

- (A) [Bob] Brown (**Bob**) Conservation Area
- (F) Four Rivers [Conservation Area] (August A. Busch, Jr. Memorial Wetlands at **Conservation Area** (Designated waterfowl hunting areas of Units 1 and 2)
- (H) [B. K.] Leach (**B. K.**) Memorial Conservation Area
- (N) [Ted] Shanks (**Ted**) Conservation Area

(6) [On Coon Island Conservation Area, Nodaway Valley Conservation Area (Open Zone portion), Settle's Ford Conservation Area, and Four Rivers Conservation Area (Units 3 and 4), w/Waterfowl hunters must self-register at designated hunter record boxes prior to hunting by completing a Daily Waterfowl Hunting Tag and accurately report harvest and check out immediately after the hunt./] on the following department areas:

- (A) **Coon Island Conservation Area**
- (B) **Fountain Grove (Southside Wetland Complex)**
- (C) **Four Rivers (August A. Busch, Jr. Memorial Wetlands at Conservation Area (Units 3 and 4))**
- (D) **Nodaway Valley Conservation Area (Open Zone portion)**
- (E) **Settle's Ford Conservation Area**

[[8] On James A. Reed Memorial Wildlife Area, waterfowl may be hunted by reservation only by holders of a valid area daily hunting tag on designated days and only in designated areas, except that hunters may retrieve dead birds and shoot downed cripples outside designated areas.]

[[9]](8) On Marais Temps Clair Conservation Area.

- (A) Teal hunting is allowed from sunrise to sunset during the pre-

scribed teal hunting season.

(B) Goose hunting is allowed from one-half (1/2) hour before sunrise to sunset during those portions of the prescribed goose hunting season that occurs outside of the prescribed duck hunting season, and from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset during the prescribed conservation order for light geese.

(C) Waterfowl hunting is allowed only until 1:00 p.m. and only on Friday, Saturday, Sunday, and Monday during the prescribed duck hunting season.

[[10]](9) [On August A. Busch Memorial Conservation Area and Cooley Lake Conservation Area, w/Waterfowl may be hunted only during managed waterfowl hunts./] on the following department areas:

- (A) **Busch (August A.) Memorial Conservation Area**
- (B) **Cooley Lake Conservation Area**
- (C) **Reed (James A.) Memorial Wildlife Area**

[[11]](10) On Little Bean Marsh Conservation Area, waterfowl may be hunted only in designated areas and only during the [regular waterfowl hunting seasons] appropriate zone's duck and Canada goose seasons.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.200 Fishing, General Provisions and Seasons. The commission proposes to amend subsections (2)(C), (2)(F), (2)(O), (2)(P), section (3), and the authority section of this rule.

PURPOSE: This amendment clarifies the end date for a fishing prohibition, standardizes the format use for conservation area names, and corrects an inaccurate reference in the authority section of the rule.

(2) Fishing is prohibited on the following department areas or individually-named lakes:

- (C) [August A.] Busch (**August A.**) Memorial Conservation Area (Lake 8)
- (F) [Charles W.] Green (**Charles W.**) Conservation Area
- (O) [Henry Jackson] Waters (**Henry Jackson**) and C.B. Moss Memorial Wildlife Area

(P) *[Mark]* Youngdahl (**Mark**) Urban Conservation Area

(3) On Prairie Lake and Fire Lake (Weldon Spring Conservation Area), fishing is prohibited during the *[area's prescribed waterfowl hunting]* appropriate zone's Canada goose season.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section [252.240] 252.040, RSMo [2000] 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.205 Fishing, Methods and Hours. The commission proposes to amend paragraphs (1)(A)3., (1)(B)4., (1)(B)12., (1)(B)22., (1)(B)32., (1)(B)33., (1)(B)39., (1)(B)40., subsections (2)(D), (2)(H), (2)(I), and section (3); remove subsection (3)(A); amend sections (5) and (6); amend paragraphs (9)(A)1.-11.; amend section (11) and subsections (11)(A)-(D); amend section (14), and add subsections (14)(A)-(D) of this rule.

PURPOSE: This amendment reformats text for clarity and standardizes the format used for conservation area names.

(1) On lakes and ponds, fish may be taken only with pole and line and not more than three (3) poles may be used by one (1) person at any time, except as otherwise provided in this chapter.

(A) Fish may be taken with bank lines, jug lines, limb lines, throwlines, and trotlines on the following department areas or individually named lakes:

1. Montrose Conservation Area
2. Schell-Osage Conservation Area
3. *[Ted]* Shanks (**Ted**) Conservation Area

(B) Carp, buffalo, suckers, and gar may be taken by atlatl, gig, bow, or crossbow during statewide seasons on the following department areas or individually-named lakes:

1. Atlanta Conservation Area
2. Bismarck Conservation Area
3. Blackjack Access
4. *[Bob]* Brown (**Bob**) Conservation Area
5. Columbia Bottom Conservation Area
6. Cooley Lake Conservation Area
7. Deer Ridge Conservation Area
8. Deroin Bend Conservation Area
9. Duck Creek Conservation Area
10. Eagle Bluffs Conservation Area

11. Femme Osage Slough (Weldon Spring Conservation Area)
12. *[Connor O.]* Fewel (**Connor O.**) Conservation Area
13. Fountain Grove Conservation Area
14. Four Rivers Conservation Area (August A. Busch, Jr. Memorial Wetlands at)
15. Franklin Island Conservation Area
16. Grand Pass Conservation Area
17. Hunnewell Lake Conservation Area
18. King Lake Conservation Area
19. Kings Prairie Access
20. Lake Paho Conservation Area
21. Lamine River Conservation Area
22. *[B. K.]* Leach (**B. K.**) Memorial Conservation Area
23. Lipp Community Lake
24. Little Compton Lake Conservation Area
25. Locust Creek Conservation Area
26. Manito Lake Conservation Area
27. Marais Temps Clair Conservation Area
28. Nodaway County Community Lake
29. Nodaway Valley Conservation Area
30. Otter Slough Conservation Area
31. Peabody Conservation Area
32. *[Ralph and Martha]* Perry (**Ralph and Martha**) Memorial Conservation Area
33. *[Haysler A.]* Poague (**Haysler A.**) Conservation Area
34. Pony Express Lake Conservation Area
35. Rebel's Cove Conservation Area
36. Schell-Osage Conservation Area
37. Sever (Henry) Lake Conservation Area
38. Settle's Ford Conservation Area
39. *[Ted]* Shanks (**Ted**) Conservation Area
40. *[H. F.]* Thurnau (**H. F.**) Conservation Area
41. Truman Reservoir Management Lands
42. Worth County Community Lake
43. Worthwine Island Conservation Area

(2) Fishing is permitted only by reservation by educational groups, and fish must be returned to the water unharmed immediately after being caught except as provided by special use permit on the following department areas or individually named lakes:

(D) Bray Pond (*[Marguerite]* Bray (**Marguerite**) Conservation Area)

(H) Sunfish Lake (*[Ronald and Maude]* Hartell (**Ronald and Maude**) Conservation Area)

(I) *[Walter]* Woods (**Walter**) Conservation Area Aquatic Education Pond.

(3) **On Cape Girardeau Conservation Nature Center Pond** *[F]*fishing is restricted to persons fifteen (15) years of age or younger *[on the following department areas or individually named lakes:]*.

[[A] Cape Girardeau Conservation Campus Nature Center Pond.]

(5) On *[James A.]* Reed (**James A.**) Memorial Wildlife Area:

(6) On *[August A.]* Busch (**August A.**) Memorial Conservation Area:

(9) Seining or trapping live bait, including tadpoles, is prohibited on all lakes and ponds, except as otherwise provided in this chapter.

(A) Seining or trapping live bait, excluding all frogs and tadpoles, in compliance with 3 CSR 10-6.605 is permitted on designated lakes and ponds on the following department areas:

1. Atlanta Conservation Area $[:]$
2. *[B.K.]* Leach (**B. K.**) Memorial Conservation Area $[:]$
3. *[Bob]* Brown (**Bob**) Conservation Area $[:]$
4. Eagle Bluffs Conservation Area $[:]$
5. Fountain Grove Conservation Area $[:]$

- 6. Grand Pass Conservation Area[;]
- 7. Long Branch Lake Management Lands[;]
- 8. Locust Creek Conservation Area[;]
- 9. Nodaway Valley Conservation Area[;]
- 10. Rebel's Cove Conservation Area[; and]
- 11. [Ted] Shanks (Ted) Conservation Area[.]

(11) The taking of crayfish, is prohibited on the following department areas:

- (A) Caney Mountain Conservation Area[;]
- (B) [Dan and Maureen] Cover (Dan and Maureen) Prairie Conservation Area[;]
- (C) [George and Vida] Martin (George and Vida) Access[; and]
- (D) [Turnback Cave [Paris Springs Access[.]

(14) [On Blind Pony Lake Conservation Area, Hunnewell Lake Conservation Area, Blackwell Lake (Indian Trail Conservation Area), and Lost Valley Fish Hatchery, bait transported or held in containers with water is prohibited.] Bait transported or held in containers with water is prohibited on the following department areas:

- (A) Blackwell Lake (Indian Trail Conservation Area)
- (B) Blind Pony Lake Conservation Area
- (C) Hunnewell Lake Conservation Area
- (D) Lost Valley Fish Hatchery

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.210 Fishing, Daily and Possession Limits. The commission proposes to amend subsections (2)(F), (2)(G), (2)(H), (2)(J), (2)(K), (2)(P) and section (3); add new subsections (3)(A)–(G); amend subsections (4)(A) and (4)(I); amend section (5); add new subsections (5)(A)–(B); amend sections (7) and (8); add new subsections (8)(A)–(E); and amend section (9), and the authority section of this rule.

PURPOSE: This amendment reformats text for clarity, standardizes the format used for conservation area names, and corrects an inaccurate reference in the authority section of the rule.

(2) The daily limit for black bass shall be two (2) on the following department areas or individually named lakes:

- (F) [August A.] Busch (August A.) Memorial Conservation Area
- (G) [Jerry P.] Combs (Jerry P.) Lake (Little River Conservation Area)
- (H) [Robert G.] DeLaney (Robert G.) Lake Conservation Area
- (J) [Ronald and Maude] Hartell (Ronald and Maude) Conservation Area
- (K) [J. N. "Turkey"] Kearns (J. N. "Turkey") Memorial Wildlife Area
- (P) [James A.] Reed (James A.) Memorial Wildlife Area

(3) [On August A. Busch Memorial Conservation Area (except Lake 33), Bellefontaine Conservation Area, Lake Girardeau Conservation Area, Otter Slough Conservation Area, Robert G. DeLaney Lake Conservation Area, Schell-Osage Conservation Area, and Weldon Spring Conservation Area, the daily limit for crappie shall be fifteen (15).] The daily limit for crappie shall be fifteen (15) on the following department areas:

- (A) Bellefontaine Conservation Area
- (B) Busch (August A.) Memorial Conservation Area (except Lake 33)
- (C) DeLaney (Robert G.) Lake Conservation Area
- (D) Lake Girardeau Conservation Area
- (E) Otter Slough Conservation Area
- (F) Schell-Osage Conservation Area
- (G) Weldon Spring Conservation Area

(4) The daily limit for white bass, striped bass, and their hybrids in the aggregate shall be four (4) on the following department areas or individually named lakes:

- (A) [August A.] Busch (August A.) Memorial Conservation Area
- (I) [James A.] Reed (James A.) Memorial Wildlife Area

(5) [At Tobacco Hills Lake (Guy B. Park Conservation Area) and General Watkins Conservation Area, t/The daily limit for bluegill and other sunfish shall be ten (10) in the aggregate.] on the following department areas:

- (A) General Watkins Conservation Area
- (B) Tobacco Hills Lake (Park (Guy B.) Conservation Area)

(7) On [August A.] Busch (August A.) Memorial Conservation Area—

(8) [On August A. Busch Memorial Conservation Area, Bluegill Pond (Bellefontaine Conservation Area), Port Hudson Lake Conservation Area, James A. Reed Memorial Wildlife Area, and Weldon Spring Conservation Area, the daily limit for fish other than those designated as endangered in 3 CSR 10-4.111 or defined as game fish shall be ten (10) in the aggregate.] The daily limit for fish other than those designated as endangered in 3 CSR 10-4.111 or defined as game fish shall be ten (10) in the aggregate on the following department areas:

- (A) Bluegill Pond (Bellefontaine Conservation Area)
- (B) Busch (August A.) Memorial Conservation Area
- (C) Port Hudson Lake Conservation Area
- (D) Reed (James A.) Memorial Wildlife Area
- (E) Weldon Spring Conservation Area

(9) On Lake 12 [August A.] Busch (August A.) Memorial Conservation Area) and Lost Valley Fish Hatchery, the daily limit for all fish shall be two (2) in the aggregate. On Lost Valley Fish Hatchery, no person shall continue to fish for any species after having two (2) fish in possession.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section [252.240] 252.040, RSMo [2000] 2016. This rule previously filed

as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.215 Fishing, Length Limits. The commission proposes to add new paragraphs (2)(A)7. and (2)(A)17.; renumber subsequent paragraphs; amend new paragraphs (2)(A)8., (2)(A)14., (2)(A)25., and (2)(A)28.; amend paragraphs (2)(B)2., (2)(B)4., (2)(B)5., (2)(B)6.; amend subsections (3)(A) and (3)(I); amend section (4); add new subsections (4)(A)–(B); amend section (6); and add new subsections (6)(A)–(B) to this rule.

PURPOSE: This amendment establishes length limits for black bass on two (2) areas, reformats text for clarity, and standardizes the format used for conservation area names.

(2) On lakes and ponds, except as listed below, black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught.

(A) Black bass less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught on the following department areas or individually named lakes:

1. Amarugia Highlands Conservation Area
2. Apple Creek Conservation Area
3. Atkinson Lake (Schell-Osage Conservation Area)
4. Bilby Ranch Lake Conservation Area
5. Binder Community Lake
6. Blackwell Lake (Indian Trail Conservation Area)
7. **Blue Springs Branch Conservation Area (Shafer Pond)**
- [7.]8. [August A.] Busch (August A.) Memorial Conservation Area (except Lakes 33 and 35)
- [8.]9. Castor River Conservation Area
- [9.]10. Che-Ru Lake (Fountain Grove Conservation Area)
- [10.]11. General Watkins Conservation Area
- [11.]12. Hazel Hill Lake
- [12.]13. Jamesport Community Lake
- [13.]14. [J. N. "Turkey"] Kearn (J. N. "Turkey") Memorial Wildlife Area
- [14.]15. Limpp Community Lake
- [15.]16. Lone Jack Lake Conservation Area
17. **Magnolia Hollow Conservation Area**
- [16.]18. Maple Leaf Lake Conservation Area
- [17.]19. Nodaway County Community Lake
- [18.]20. Otter Slough Conservation Area

- [19.]21. Painted Rock Conservation Area
- [20.]22. Perry County Community Lake
- [21.]23. Pony Express Lake Conservation Area
- [22.]24. Ray County Community Lake
- [23.]25. [James A.] Reed (James A.) Memorial Wildlife Area
- [24.]26. Rinquelin Trail Lake Conservation Area
- [25.]27. Schell Lake (Schell-Osage Conservation Area)
- [26.]28. [Ted] Shanks (Ted) Conservation Area
- [27.]29. Tobacco Hills Lake (Guy B. Park Conservation Area)
- [28.]30. Vandalia Community Lake
- [29.]31. Weldon Spring Conservation Area
- [30.]32. Worth County Community Lake

(B) Black bass less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught on the following department areas or individually named lakes:

1. Bellefontaine Conservation Area
2. Lakes 33 and 35 ([August A.] Busch (August A.) Memorial Conservation Area)
3. Belcher Branch Lake Conservation Area
4. [Jerry P.] Combs (Jerry P.) Lake (Little River Conservation Area)
5. [Robert G.] Delaney (Robert G.) Lake Conservation Area
6. [Ronald and Maude] Hartell (Ronald and Maude) Conservation Area
7. Happy Holler Lake Conservation Area
8. Lake Paho Conservation Area
9. Port Hudson Lake Conservation Area

(3) White bass, striped bass, and their hybrids less than twenty inches (20") total length must be returned to the water unharmed immediately after being caught on the following department areas or individually named lakes:

- (A) [August A.] Busch (August A.) Memorial Conservation Area
- (I) [James A.] Reed (James A.) Memorial Wildlife Area

(4) [On Tobacco Hills Lake (Guy B. Park Conservation Area) and General Watkins Conservation Area, b]Bluegill less than eight inches (8") total length must be returned to the water unharmed immediately after being caught[.] on the following department areas:

- (A) General Watkins Conservation Area
- (B) Tobacco Hills Lake (Park (Guy B.) Conservation Area)

(6) [On Limpp Community Lake and Little Compton Lake, f]Flathead catfish less than twenty-four inches (24") total length must be returned to the water unharmed immediately after being caught[.] on the following areas:

- (A) Limpp Community Lake
- (B) Little Compton Community Lake Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's

website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 20—Wildlife Code: Definitions

PROPOSED AMENDMENT

3 CSR 10-20.805 Definitions. The commission proposes to delete section (34), renumber subsequent sections, add new section (37), amend section (49), and add subsections (49)(A)–(49)(D) of this rule.

PURPOSE: This amendment simplifies the Wildlife Code by adding a term that was previously defined in Chapter II and eliminating unnecessary verbiage. Due to confusion regarding eligibility for no-cost permits and challenges faced with enforcement of the current regulation, the Department of Conservation will no longer offer lessees the same privileges as landowners; therefore, it is no longer necessary to define the term lessee in the Code. It also clarifies corporate ownership privileges to align the Code with the corporate definition within the Missouri Revised Statutes and clarifies that general partnerships must be formed by written agreement.

[(34)] Lessee: Any Missouri resident who resides on and leases at least five (5) acres of land in one (1) continuous tract owned by others, or any member of the immediate household whose legal residence and domicile is the same as the lessee's for at least thirty (30) days last past.]

[(35)](34) Limit: The maximum number or quantity, total length, or both, of any wildlife permitted to be taken or held in possession by any person within a specified period of time according to this Code.

[(36)](35) Managed deer hunt: A prescribed deer hunt conducted on a designated area for which harvest methods, harvest quotas, and numbers of participants are determined annually and presented in the deer hunting rules (3 CSR 10-7.431 and 3 CSR 10-7.436).

[(37)](36) Mouth of stream or ditch: The point at which a line projected along the shore of a main stream or ditch at the existing water level at time of measurement crosses any incoming stream or ditch.

(37) Multi-use Trail: A trail upon which hiking and at least one (1) of the following other activities are allowed concurrently: bicycling and equestrian use.

(49) Resident landowner: Any Missouri resident who is the owner of at least five (5) acres in one (1) contiguous tract, or any member of the immediate household whose legal [resident] residence or domicile is the same as the landowner's for at least thirty (30) days last past. In the case of corporate ownership of land, [only registered officers of corporations meet this definition.] persons defined as landowners include Missouri residents who are:

(A) General partners of resident limited liability partnerships, limited partnerships, or limited liability limited partnerships, and general partners of general partnerships formed by written agreement

(B) Officers of resident or foreign corporations

(C) Managing members of resident limited liability companies

(D) Officers of benevolent associations organized pursuant to Chapter 352 of the Revised Statutes of Missouri

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-II.805.

Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <http://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 15—Division of Aging
Chapter 19—Special Inspection Standards

PROPOSED RESCISSION

13 CSR 15-19.010 Standards for Inspection of Facilities or Premises Funded by Federal Departments Other Than Health and Human Services. This rule exempted certain facilities or premises' until October 1, 1989 from regulations under Title 13, Division 15 and set forth standards for such facilities or premises'.

PURPOSE: This rule is being rescinded because it was only written to last until October 1, 1989, but it was never properly rescinded from the CSR.

AUTHORITY: section 198.009, RSMo Supp. 1987. Emergency rule filed July 15, 1988, effective Aug. 13, 1988, expired Nov. 1, 1988. Original rule filed July 15, 1988, effective Nov. 11, 1988. Rescinded: filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division [30] 40—[Child Support Enforcement]
Family Support Division
Chapter [5] 102—[Determining] Child Support
[Obligations], Establishment

PROPOSED AMENDMENT

13 CSR [30-5.010] 40-102.010 Child Support Obligation Guidelines. The division is amending the purpose and all sections of

this rule.

PURPOSE: This amendment will make this rule comply with New Missouri Supreme Court Guidelines. Additionally, amendment of this rule is necessary to update terminology and to move the rule from Title 13, Division 30—Child Support Enforcement to Title 13, Division 40—Family Support Division.

PURPOSE: This rule sets forth the guidelines to be followed by the Family Support Division [of Child Support Enforcement] to determine the current amount of support due when establishing or modifying child support obligations.

(1) General Provisions.

(A) Definitions—as used in this rule:

1. “Director” means the director of the **Family Support Division [of Child Support Enforcement]** or his/her designee[.];
2. “Division” means the **Family Support Division [of Child Support Enforcement].**; and
3. “Form 14” means Missouri Supreme Court Civil Procedure Rule Form 14 and accompanying Schedule of Basic Child Support Obligations.

(2) Specific Provisions [and Deviation Criteria].

(A) Determining and Imputing Income.

1. The division will generally include overtime, secondary employment, and bonus income when determining gross income.

2. For a parent incarcerated in a federal or state prison, the division will use actual income, which may be the monetary compensation the incarcerated parent receives for engaging in work or education programs while incarcerated.

[2.]3. Past earnings information may be used to impute income. Information on previous earnings may be obtained from the following sources, including, but not limited to, Division of Employment Security computer screens, Internal Revenue Service, past employers, tax returns, and wage stubs.

[3.]4. When income information is not available, and information regarding the parent’s normal occupation or educational level is known, or special skills which qualify him/her to maintain specific jobs, income may be imputed based on probable earnings levels for his/her usual occupation, qualifications, and prevailing job opportunities and wages in the parent’s community. This information may be obtained from sources including, but not limited to, the Department of Labor and Industrial Relations, local unions, or employers in the area.

[4.]5. Income may be imputed to a parent who is unemployed or underemployed based on the determination of the parent’s potential to earn income. A parent whose actual income cannot be determined or who has no income will be imputed income as follows:

A. A parent who is not currently employed, whether or not he/she has a work history, and is now disabled and unable to work, or has a child at home whose condition or circumstance requires a parent’s presence in the home, will be imputed zero income[.];

B. A parent who has no work history and has a child in the home under the age of six (6) years will be imputed zero income[.];

C. A parent who has no work history and has a child at home between the ages of six (6) and twelve (12) years, will be imputed part-time (twenty (20) hours per week) at federal minimum wage[.] or minimum wage in the state where the party resides, whichever is higher; or

D. A parent with no work history, and no children under age thirteen (13), [full-time] will be imputed income (up to forty (40) hours per week) at federal minimum wage [will be imputed] or the minimum wage in the state where the party resides, whichever is higher.

[(B) A support order for a non-parent caretaker relative, or a foster care case, will be completed using separate Form 14s for each parent’s case, listing on one Form 14 the mother as the parent paying support and on the second Form 14,

the father as the parent paying support.

(C) A presumed child support amount equal to zero or less than zero will be entered as an obligation of zero.]

[(D)](B) The parents must provide information (court orders, pay records, previous Form 14s, check stubs, etc.) regarding other child support obligations, spousal obligations, insurance, and child care, for credit on the Form 14.

[(E)](C) Neither parent will be considered the moving party if the division or a non-parent caretaker relative initiates the modification. Both parents will be given credit for any other court or administrative order of child or spousal support [which he/she is paying] or for other natural or adopted children not subject to this proceeding.

[(F)](D) To include extraordinary medical or child-rearing costs, it must be ordered by the court or an agreement in writing of the amount of any extraordinary medical or child rearing costs to be included on the Form 14 must be signed by both parents and provided to the division.

[(G)](E) For adjustments for periods of overnight visitation, the division will follow the Form 14 Directions, Comments For Use and Examples for Completion of Form No. 14. Adjustment for periods of overnight visitation will be given up to the amount of visitation that has been court-ordered. If the non-custodial parent visits the child less than the amount granted in the court order, he/she will only receive credit for the overnight visits actually exercised. The parents must provide evidence concerning the amount of time actually exercised in court-ordered visitations. **In determining the number of overnight visits the parent paying support exercises, the division will:**

[1. Number of overnight periods—Less than 36/Adjustment 0%

2. Number of overnight periods—36–72/Adjustment 6%

3. Number of overnight periods—73–91/Adjustment 9%

4. Number of overnight periods—91–145/Adjustment 10%]

1. If the parent receiving support and parent paying support agree on the number of overnights, use the agreed number of overnights;

2. If only one (1) of the parents provide information, use the information provided;

3. If neither parent responds, use the total number of overnights awarded by the court; or

4. If the parent receiving support and the parent paying support disagree on the number of overnights and the conflict cannot be resolved, use the information provided that will give the parent paying support the largest adjustment without exceeding the court ordered visitation.

[(H)](3) Deviations.

(A) If it is determined the presumed child support amount is unjust and inappropriate, the division may deviate based on the [criteria in the directions for completion of the Form 14] relevant factors set forth in the Civil Procedure Form No. 14 Directions, Comments for Use and Examples or for [one] any of the following reasons:

1. A parent is under a Chapter 13 Bankruptcy plan[.];

2. The Children’s Division [of Family Services] determines that in a foster care case the child support amount is not in the best interest of the child. The Children’s Division [of Family Services] staff must provide the reason in writing[.]; or

3. The parent obligated to pay support claims to the division an inability to pay the presumed child support amount because the parent’s reasonable shelter expenses, or [one]-half of the shelter expenses if another person resides with the parent and assists in these expenses, and the child support total is sixty percent (60%) or more of the parent’s gross monthly income. The parent to whom support is due claims the child support amount is too low and that parent’s share of the total child support and his/her reasonable shelter expenses, or [one]-half of the shelter expenses if another person resides

with and assists in these expenses, minus the presumed child support of the parent obligated to pay support equals **sixty percent (60%)** or more of his/her gross income.

[4.](B) The division may deviate to adjust the presumed child support amount up to **twenty-five percent (25%)** if any of the [above] factors in **(A)** above exist or if a deviation reason from the **Civil Procedure Form No. 14 Directions, Comments for Use and Examples** exist.

[5.] If the amount of overnight visitation exceeds 146 nights, the division may determine the children are spending substantially equal time with both parents, which may require a deviation from the presumed child support amount.]

[6.](C) If the total amount of children on the order exceeds six **(6)**, the division will add to the amount determined by the guidelines for six **(6)** children, the difference between the amount for five **(5)** children and six **(6)** children and add that amount for each additional child.

(D) If the parent receiving support and parent paying support have multiple children and the support obligations for the children are in different orders (i.e., multiple judicial orders or a combination of judicial and administrative orders) and a modification review is requested, the division may deviate upward or downward so that when all of the obligations are added together, the obligation equals the presumed amount the parent paying support should pay for all of his/her children.

(E) If a judicial support obligation exists between the parent receiving support and parent paying support for their children, and the same parent receiving support and parent paying support have an additional child(ren) not included in previously entered judicial order(s), the division may deviate so that the amount the parent paying support pays for the additional child(ren) is the difference between the presumed support amount for all of the children and the amount in the parents' existing orders. If the presumed amount for all the children is less than the existing order(s), the division may enter an order for zero **(0)** for the additional child(ren).

AUTHORITY: sections 454.400 and 660.017, RSMo [Supp. 1999] 2016. Original rule filed Feb. 2, 1988, effective April 11, 1988. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division [30] 40—[Child Support Enforcement]
Family Support Division
Chapter [8] 100—[Cooperation Requirement]
Child Support Program, General Administration

PROPOSED AMENDMENT

13 CSR [30-8.010] 40-100.030 Cooperation Requirement. The division is amending the purpose and all sections of this rule.

PURPOSE. This amendment defines genetic testing, clarifies and updates terminology, and moves this rule from Title 13, Division 30—Child Support Enforcement to Title 13, Division 40—Family Support Division.

PURPOSE. This rule sets forth the requirement for individuals who are applicants for or recipients of public assistance benefits (applicants/recipients) to cooperate with the Family Support Division [of Child Support Enforcement] in its efforts to establish paternity and establish, modify, and enforce child support orders.

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

(A) “Division” means the **Family Support Division [of Child Support Enforcement]**;

(B) “Good cause” means the circumstances under which cooperation is not in the best interest of the child or custodian who has applied for or is receiving public assistance benefits;

(C) “Cooperation” means the duty of applicants/recipients to provide, within their ability to do so, all requested information and assistance to the division to enable it to establish paternity and establish, modify, and enforce child support and medical support orders;

(D) “Public assistance” means any benefits from a program funded pursuant to Part A or Part E of Title IV of the Social Security Act, Title XIX of the Social Security Act, or the Food Stamp Act;

(E) “Applicant/recipient” is a person who has applied for or is receiving public assistance;

(F) “NCP” means noncustodial parent;

(G) “AF” means alleged father[.];

(H) “Genetic Testing” means testing for paternity using blood cells, other tissue, or fluid.

(2) Cooperation Requirements. If it is determined by the [d/Division’s **Child Support Program** that an applicant/recipient is not cooperating in establishing paternity [or], establishing a medical support order with respect to a child, or in establishing, modifying, or enforcing a support order, and the applicant/recipient does not qualify for a good cause or other exceptions established by the [d/Division, the [d/Division’s **Child Support Program** shall notify the [Division of Family Services] **Division’s Income Maintenance Program**, who shall impose sanctions. Cooperation requirements include, but are not limited to, providing to the [d/Division’s **Child Support Program** the following information pertaining to the noncustodial parent (NCP) or alleged father (AF) and assistance to establish paternity and establish, modify, and enforce support orders:

(A) Information relating to the NCP or AF includes, but is not limited to [the following]:

1. The name;
2. Date of birth or approximate age;
3. Social Security number;
4. Known address or last known address;
5. Past or present employer and usual occupation;
6. Name of high school, college, university, vocational school/expected graduation date;
7. Names of friends or relatives who may have information;
8. Names of clubs or union memberships;
9. Driver’s license information;
10. Physical description;
11. Make, model, or license plate of any vehicles owned;
12. Any information regarding any other property owned; and
13. Any other pertinent information relevant to locating the NCP/AF[.];

(B) Assistance required from the applicant/recipient—

1. Providing financial and income information, education, and work history of the applicant/recipient;
2. Providing and updating the street and mailing address of the applicant/recipient;
3. Appearing at and cooperating with the [division,] **Division's Child Support Program** or prosecuting attorney's offices and supplying written documentary evidence;
4. Appearing as a witness at judicial or administrative hearings;
5. Completing a notarized affidavit[,] attesting to a lack of relevant information regarding the NCP or AF; and
6. All other assistance requested by the [d/Division's **Child Support Program** to establish paternity including, but not limited to, keeping appointments for genetic testing[,] and participating in genetic testing.

(3) Good Cause for Noncooperation.

(A) An applicant/recipient may refuse to cooperate with the [d/Division's **Child Support Program** based upon good cause. Each applicant/recipient will be informed by the division [or Division of Family Services caseworker] about the duty to cooperate and the right to claim good cause. Each applicant/recipient will also be provided information regarding good cause, including its definition and how good cause can be claimed and what evidence is needed to support such a claim.

(B) If the applicant/recipient claims good cause to the [Division of Family Services caseworker] **Division's Income Maintenance Program**, the [Division of Family Services] **Division's Income Maintenance Program** may make the good cause determination in compliance with this regulation.

(C) The applicant/recipient shall be provided a written copy of the requirement to cooperate and the right to claim good cause for refusal to cooperate with the [d/Division's **Child Support Program**. It is the responsibility of the applicant/recipient to specify the circumstances under which good cause is claimed and provide corroborative evidence. Good cause for refusing to cooperate is deemed to exist in one (1) or more of the following circumstances, but may not be limited to these circumstances:

1. Physical or emotional harm to a child;
2. Physical or emotional harm to the applicant/recipient of sufficient severity that it would reduce the applicant/recipient's capacity to adequately care for a child;
3. Physical or emotional harm to the applicant/recipient as a result of domestic violence;
4. The child for whom support is sought was conceived as a result of incest or rape; or
5. Legal proceeding for the adoption of the child is pending before a court.

(4) The documentation will be submitted to the [caseworker who] **Division's Income Maintenance Program** which will review it to determine if there is sufficient evidence to establish a claim of good cause. A claim of good cause may be verified by one of the following:

(5) Due Process Rights.

(A) Upon application, the applicant/recipient will be given, in writing, notice of the cooperation requirements. These requirements will be explained along with what sanctions can be applied when the applicant/recipient fails to cooperate with the [d/Division's **Child Support Program**. If the applicant/recipient claims good cause, he/she will have twenty (20) calendar days to provide evidence to support the claim of good cause. The twenty (20) days may be extended, in the case of difficulty in obtaining the evidence, for a period of time not to exceed forty-five (45) days as determined by the [caseworker] **Division's Income Maintenance Program**.

(B) Review and Determination. If the applicant/recipient claims good cause, the [division or] Division's [of Family Services caseworker] **Income Maintenance Program** will review the information provided [and make a recommendation as to whether or not good cause exists. The recommendation must—

1. Be in written form and contain the worker's recommendation, the basis for the recommendation, the documentation provided by the applicant/recipient; and
2. Be forwarded to the designated division or Division of Family Services personnel, who will] and make the final determination as to whether there is good cause for noncooperation.

(C) Notification of Final Determination. [The applicant/recipient must be notified] **The Division's Income Maintenance Program will notify the applicant/recipient of its decision in writing [of the findings and basis for determination].** If [there is a finding of] **the division finds that there is** good cause for noncooperation, **the division will give the** applicant/recipient [will be given] the [opportunity] **option** to have child support services stopped or be continued. If **the division finds that there is** no good cause [is found] **to refuse to cooperate, the division will give the** applicant/recipient [will be afforded] an opportunity to cooperate, withdraw the request for assistance, or terminate assistance. [The notification must be made a part of either the division or Division of Family Services case record.]

AUTHORITY: sections 454.400[. 2(5)] and 660.017, RSMo [Supp. 1999] 2016. Original rule filed March 30, 2000, effective Oct. 30, 2000. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES

Division 40—Family Support Division

Chapter 32—Child Care

PROPOSED RESCISSION

13 CSR 40-32.020 Processing of Applications for State and Federal Funds for Providing Child Care Services. This rule implemented the provisions of section 210.025, RSMo, relating to conducting background checks of persons applying for state or federal funds for providing child care services in the home.

PURPOSE: This rule is being rescinded as it is duplicative of 13 CSR 35-32.070 through 13 CSR 35-32.090.

AUTHORITY: section 210.025, RSMo 2000. Emergency rule filed Dec. 19, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed Dec. 19, 2000, effective June 30, 2001. Rescinded: Filed Aug. 20, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 36—Alternative Care Review Process**

PROPOSED RESCISSION

13 CSR 40-36.001 Foster/Relative/Adoptive Parent Grievance Procedure. This rule described the grievance procedure for a foster/relative/adoptive parent when s/he disagrees with any decision made by the Division of Family Services involving the management of a participating foster/adoptive child.

PURPOSE: This rule is being rescinded because it is duplicative of 13 CSR 35-36.010.

AUTHORITY: section 210.526, RSMo 1986. Original rule filed July 6, 1988, effective Sept. 29, 1988. Amended: Filed June 15, 1994, effective Jan. 29, 1995. Rescinded: Filed Aug. 20, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division [40] 35—[Family Support] Children's Division
Chapter 73—Licensing of Child Placing Agencies**

PROPOSED AMENDMENT

13 CSR [40] 35-73.012 Basis for Licensure and Licensing Procedures. The division is moving the rule's division location and amending paragraph (6)(E)1.

PURPOSE: This amendment changes the division, chapter location and number, and updates references to other regulations.

(6) Licensing Renewal.

(E) In addition to the completed renewal application, the following documents shall be submitted:

1. Verification of a biennial physical examination, completed by a licensed physician, registered nurse who is under the supervision of a licensed physician, or an advanced practice nurse in a collaborative agreement with a licensed physician for all staff working directly with children (see 13 CSR [40] 35-73.030(3)(A));

2. A current governing board roster, with officers identified, including the addresses and a notarized letter of acceptance from each member;

3. A summary of any significant changes to programs and copies of any resulting policies or policy changes;

4. A copy of the current organizational chart;

5. A completed personnel report on a form prescribed by the division;

6. Results of an annual check of the [CA/N] Child Abuse and Neglect CRU for all staff, contracted personnel, and volunteers working with children;

7. Results of the annual criminal records check for all staff, contracted personnel, and volunteers working with children;

8. A copy of a biennial financial audit and evaluation of the financial soundness of the operation conducted by a certified public accountant not employed by the agency;

9. A copy of the budget for the current calendar or fiscal year;

10. A statistical report on a form supplied by the division;

11. A list of the names and addresses of all current foster homes licensed by the agency;

12. An annual written plan for all foster parent training;

13. A written plan indicating how the agency will provide for the transfer of records on both open and closed cases in the event the agency closes;

14. An annual program evaluation;

15. An itemized schedule of all fees to be assessed to applicants; and

16. Copies of all written agreements (contracts) for the adoption process.

AUTHORITY: sections [210.481–210.536] 207.020 and 660.017, RSMo [(1994) and (Cum. Supp. 1996)] 2016. Original rule filed Feb. 6, 1997, effective July 30, 1997. Moved and amended: Filed Aug. 20, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 73—Licensing of Child Placing Agencies**

PROPOSED RESCISSION

13 CSR 40-73.015 Exemption of Child Placing Agencies From

Licensure. This rule defined the provisions for judicial review and disposition of the child(ren).

PURPOSE: This rule is being rescinded because it is unnecessary.

AUTHORITY: sections 210.481–210.536, RSMo (1994) and (Cum. Supp. 1996). Original rule filed Oct. 7, 1987, effective March 25, 1988. Rescinded: Filed Jan. 14, 1997, effective July 30, 1997. Readopted: Filed Feb. 6, 1997, effective July 30, 1997. Rescinded: Filed Aug. 20, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 73—Licensing of Child Placing Agencies**

PROPOSED RESCISSION

13 CSR 40-73.018 Court Review and Dispositional Hearing. This rule defined the provisions for judicial review and disposition of the child(ren).

PURPOSE: This rule is being rescinded as it is unnecessary.

AUTHORITY: sections 210.481–210.536, RSMo (1994) and (Cum. Supp. 1996). Original rule filed Feb. 6, 1997, effective July 30, 1997. Rescinded: Filed Aug. 20, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division [40] 35—[Family Support] Children’s Division
Chapter 73—Licensing of Child Placing Agencies**

PROPOSED AMENDMENT

13 CSR [40] 35-73.030 Personnel Practices and Personnel. The division is moving the rule’s division location and amending subsection (1)(C).

PURPOSE: This amendment changes the division, chapter location and number, and updates references to other regulations.

(1) Personnel Practices.

(C) The agency shall investigate and evaluate employment application information carefully to determine whether employment of an applicant is in the best interests of the children and clients served.

1. No person who has served as a member of the governing board, administrator, or other officer of an agency that has failed to secure a license to operate as a child placing agency shall be employed by, licensed by, or associated with a licensed child placing agency for a period of two (2) years after termination or cessation of that illegal operation.

2. No person, administrator, or other officer of an agency which continued in operation after having knowledge of the revocation or suspension of the agency’s license shall be employed by or associated with a licensed agency for a period of two (2) years from cessation of the illegal operation.

3. The division may waive provisions of 13 CSR [40] 35-73.030(1)(C)1. and 2. if it is shown that the person had no knowledge of or had no reason to know the operation was illegal. Such a waiver must take place before the employee is hired or a request for a waiver shall be submitted to the division within thirty (30) days after it is discovered that an ineligible person has been employed.

AUTHORITY: sections [210.481–210.236, RSMo (1994) and (Cum. Supp. 1996)] 207.020 and 660.017, RSMo 2016. Original rule filed Sept. 18, 1956, effective Sept. 28, 1956. For intervening history, please consult the *Code of State Regulations*. Moved and amended: Filed Aug. 20, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 65—Missouri Medicaid Audit and Compliance
Chapter 3—Providers and Participants—General Provider
and Participant Policies**

PROPOSED RULE

13 CSR 65-3.060 Computation of Provider Overpayment by Statistical Sampling

PURPOSE: This rule establishes a statistical methodology where the billing forms or claims for payment submitted by Medicaid providers may be examined to determine compliance with Title XIX (Medicaid) Program requirements and proper payment, and this rule also sets

forth the manner in which providers may challenge the results.

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

(A) "Claim for payment" or "claim" means the Internal Control Number (ICN) and the associated data submitted to the Medicaid agency for the purpose of obtaining payment by the Title XIX Medicaid Program;

(B) "Disproportionate Stratified Random Sampling Technique" means a sampling method in which the size of the sample drawn from a particular stratum is not proportional to the relative size of that stratum;

(C) "Medicaid agency" or "the agency" means the single state agency administering or supervising the administration of the state Medicaid plan;

(D) "Overpayment" means an amount of money paid to a provider by the Medicaid agency to which the provider was not entitled by reason of improper billing, error, fraud, abuse, lack of verification, or insufficient medical necessity;

(E) "Provider" means any person, partnership, corporation, not-for-profit corporation, professional corporation, or other business entity that enters into a contract or provider agreement with the Medicaid agency for the purpose of providing services to Medicaid-eligible persons and obtaining from the Medicaid agency reimbursement for services;

(F) "Sampling Unit" means one (1) of the units into which an aggregate (e.g. total paid on claims) is divided for the purpose of sampling. For example a sampling unit may be ICNs, a specific procedure code or codes, or participant DCNs (Document Control Numbers);

(G) "Stratum" refers to a sampling method in which the universe is divided into non-overlapping subgroups. Each of the subgroups is called a stratum, and two (2) or more subgroups are called strata; and

(H) "Universe" means all claims for payment or all claims relating to a specific service or a specific item or merchandise submitted by a provider between two (2) certain dates.

(2) The Medicaid agency may use a Disproportionate Stratified Random Sampling Technique to establish provider overpayments. This technique is an extrapolation of a statistical sampling of claims used to determine the total overpayment for recoupment.

(3) When a total overpayment has been computed by statistical sampling, the Medicaid agency may proceed to recover the full amount of the overpayment from the provider as an amount due. Recovery of the overpayment shall be accomplished according to the provisions of 13 CSR 70-3.030(6), except that in cases where the amount due was computed by statistical sampling, the notice informing the provider of the amount due required by 13 CSR 70-3.030(6)(A) and (B) shall also contain the following information:

(A) The dates of service and total paid for the Universe;

(B) Definition of the sampling unit;

(C) The number of claims in the statistical sample; and

(D) A generally summarized description of the reasons for the overpayment determinations with all claims in the statistical sample identified as to which overpayment description applies to each.

(4) The extrapolated overpayment is a final decision regarding administration of the state Medicaid plan and is subject to appeal in accordance with section 208.156, RSMo.

AUTHORITY: sections 208.201 and 660.017, RSMo 2016. Original rule filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 2—General Scope of Medical Service Coverage**

PROPOSED AMENDMENT

13 CSR 70-2.100 Title XIX Procedure of Exception to Medical Care Services Limitations. The division is amending all sections of this rule.

PURPOSE: This amendment updates approving division's name. Language updated and/or removed to be in line with current policy.

(1) Under the requirements of this rule, the *[Division of Medical Services (DMS)] MO HealthNet Division* may approve and authorize payment for the provision to a Medicaid-eligible recipient of an essential medical service or item that would otherwise exceed the benefit limitations of the medical assistance program. An administrative exception may be made on a case-by-case basis to limitations and restrictions. The director of the DMS will have the final authority to approve payment on a request made to the exception process. These decisions will be made with appropriate medical or pharmaceutical advice and consultation.

(2) Requirements for consideration and provision of a service as an exception to the normal limitations of Medicaid coverage are as follows:

(D) Any medical, surgical, or diagnostic service requested which is provided by a physician must be listed in the most recent publication of the *Physicians' Current Procedural Terminology, Fourth Edition (CPT-4)*;

(3) Consideration under this rule shall not be applicable to requests for services under the following circumstances such as, but not limited to:

[(A) Requests for General Relief recipients for noncovered services or program areas;]

[(B)](A) Services that would be provided by individuals whose specialty is not covered by the Medicaid program[, such as chiro-practic services];

[(C)](B) Orthodontics;

[(D)](C) Inpatient hospital services;

[(E)](D) Air transportation;

[(F)](E) Alternative services such as personal care, adult day health care, homemaker/chore, hospice, and respite care, regardless of authorization by the [Division of Aging] Department of Health and Senior Services;

[(G) Psychological testing or counseling provided by professionals other than psychiatrists;]

[(H)](F) Waiver of Medicaid program requirements for documentation, applicable to services requiring a second surgical opinion, voluntary sterilization, hysterectomies, or legal abortions;

[(I)](G) Failure to obtain prior authorization as required for a service otherwise covered by Medicaid;

[(J)](H) Delivery or placement of custom-made items following the recipient's death or loss of eligibility for the service;

[(K)](I) Previous denial by the Medicaid state agency of a request for exception consideration where the current request fails to present information of significance in overcoming the deficiency upon which the original request was denied;

[(L)](J) Requests for additional reimbursement for items or services otherwise covered by the Medicaid program;

[(M) Over-the-counter drugs;

[(N) Providing additional covered drugs when recipient has used his/her five (5) prescriptions per month;

[(O) Qualified Medical Benefits services (QMB);]

[(P)](K) Medicaid waiver services [such as Children's Waiver, Acquired Immunodeficiency Syndrome (AIDS) Waiver, Community Psychiatric Rehabilitation Waiver or Mentally Retarded Developmental Disabled Waiver]; and

[(Q)](L) Transplants.

AUTHORITY: sections 207.020, 208.153, [and] 208.201, and 660.017, RSMo [2000] 2016. This rule was previously filed as 13 CSR 40-81.195. Original rule filed May 15, 1987, effective Oct. 11, 1987. Amended: Filed June 4, 1990, effective Dec. 31, 1990. Amended: Filed Oct. 2, 2006, effective April 30, 2007. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

PROPOSED RESCISSION

13 CSR 70-3.130 Computation of Provider Overpayment by Statistical Sampling. This rule established the method where the billing forms or claims for payment submitted by Medicaid providers were to be examined to determine compliance with Title XIX (Medicaid) Program requirements and proper payment, and set forth the statistical methodology to be employed and the manner in which providers could challenge the results.

PURPOSE: This rule is being rescinded in its entirety. An updated rule is being filed by Missouri Medicaid Audit and Compliance under Division 65 that will be more consistent with the state's goal of reducing burden on providers.

AUTHORITY: section 208.165, RSMo 2000 and sections 208.153 and 208.201, RSMo Supp. 2010. This rule was previously filed as 13 CSR 40-81.161. Original rule filed April 14, 1983, effective Oct. 13,

1983. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

PROPOSED AMENDMENT

13 CSR 70-3.230 Payment Policy for Provider Preventable Conditions. The division is amending sections (1), (2), and (3), creating a new section (4), renumbering the previous section (4) to section (5), and deleting sections (5) and (6).

(1) Definitions.

(A) "Provider Preventable Conditions (PPC)[.]" is [A]an umbrella term for hospital and non-hospital acquired conditions identified by the state for nonpayment to ensure the high quality of Medicaid services. PPCs include two (2) distinct categories, Health Care-Acquired Conditions (HCAC) and Other Provider-Preventable Conditions (OPPC).

(B) "Health Care-Acquired Conditions (HCAC)[. Apply to]" means conditions that occurred during a Medicaid inpatient hospital stay. HCACs are [defined as] set forth in the [full] most current list of Medicare Hospital Acquired Conditions, with the exception of Deep Vein Thrombosis/Pulmonary Embolism following total knee replacement or hip replacement in pediatric and obstetric patients, as the minimum requirements for states' PPC nonpayment program.

(C) "Other Provider-Preventable Conditions (OPPC)[. This includes the list of Serious Reportable Events in Healthcare as published by the National Quality Forum. These conditions apply broadly to Medicaid inpatient and outpatient health care settings where these events may occur.]" means conditions occurring in any health care setting that include, at a minimum, wrong surgical or other invasive procedure performed on a patient; surgical or other invasive procedure performed on the wrong body part; surgical or other invasive procedure performed on the wrong patient pursuant to 42 CFR 447.26(b).

[(D) Adverse event. A discrete, auditable, and clearly defined occurrence as identified by the National Quality Forum in its list of serious adverse events in health care, as of December 15, 2008 (and as further defined by the criteria and implementation guidance of Table 1 of the National Quality Forum's publication "Serious Reportable Events in Healthcare: 2006 Update" which is available at http://www.qualityforum.org/publications/reports/sre_2006.asp), or an event identified by the Centers for Medicare and Medicaid Services, as of December 15, 2008, that leads to a negative consequence of care resulting in an unintended

injury or illness which was preventable.

(E) Preventable. An event that reasonably could have been anticipated and avoided by the establishment and implementation of appropriate policies, procedures, and protocols by a hospital or by staff conformance to established hospital policies, procedures, and protocols.

(F) Serious. An adverse event that results in death or loss of a body part, disability, or loss of bodily function lasting more than seven (7) days or, for a hospital patient, the loss of bodily function is still present at the time of discharge from a hospital.

(G) Healthcare facility. For purposes of the regulation shall mean a hospital or ambulatory surgical center.]

(2) Payment to hospitals or ambulatory surgical centers enrolled as MO HealthNet providers for care related only to the treatment of the consequences of a HCAC will be denied or recovered by the MO HealthNet Division when the HCAC is determined to have occurred during an inpatient hospital stay and would otherwise result in an increase in payment. HCAC conditions are identified in the most current list of Medicare Hospital Acquired Conditions at https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalAcqCond/icd10_hacs.html.

[(A) HCAC conditions include:

- 1. Foreign object retained after surgery;*
- 2. Air embolism;*
- 3. Blood incompatibility;*
- 4. Stage III and IV pressure ulcers;*
- 5. Falls and trauma—*
 - A. Fractures;*
 - B. Dislocations;*
 - C. Intracranial Injuries;*
 - D. Crushing Injuries;*
 - E. Burns; or*
 - F. Electric Shock;*
- 6. Catheter-associated Urinary Tract Infection;*
- 7. Vascular catheter-associated infection;*
- 8. Manifestations of poor glycemic control—*
 - A. Diabetic Ketoacidosis;*
 - B. Nonketotic Hyperosmolar coma;*
 - C. Hypoglycemic coma;*
 - D. Secondary diabetes with ketoacidosis; or*
 - E. Secondary diabetes with hyperosmolarity;*
- 9. Surgical site infection following:*
 - A. Coronary Artery Bypass Graft (CABG)—*

Mediastinitis;
 - B. Bariatric surgery—*
 - (I) Laparoscopic gastric Bypass;*
 - (II) Gastroenterostomy; or*
 - (III) Laparoscopic gastric restrictive surgery; or*
 - C. Orthopedic procedures—*
 - (I) Spine;*
 - (II) Neck;*
 - (III) Shoulder; or*
 - (IV) Elbow; and*
- 10. Deep Vein Thrombosis (DVT)/Pulmonary Embolism (PE) excluding those in pediatric and obstetric patients following:*
 - A. Total knee replacement; or*
 - B. Hip replacement.]*

[(B)](A) Hospitals or ambulatory surgical centers enrolled as MO HealthNet providers shall include the “Present on Admission” (POA) indicator on the CMS 1450 UB-04 or electronic equivalent when submitting inpatient claims for payment [beginning July 1, 2010]. The POA indicator is to be used according to the Official Coding Guidelines for Coding and Reporting and the Center for Medicare and Medicaid Services (CMS) guidelines. The POA indicator [will] prompts review of inpatient hospital claims with a HCAC diagnosis code [when appropriate according to the CMS guidelines].

[(C)](B) [HCACs are based on Medicare inpatient prospective payment system rules effective October 1, 2010 (FY 2011), published in the Federal Register, 75:157 (Aug. 16, 2010), pp. 50084–50085, with the inclusion of present on admission (POA) indicators as provided by the final regulation published in the Federal Register, 76:108 (June 6, 2011), pp. 32816–32838. Unlike Medicare, a] All MO HealthNet enrolled hospitals or ambulatory surgical centers must report [the above mentioned] HCACs on claims submitted to MO HealthNet for consideration of payment.

(C) The MO HealthNet Division, or designee, will identify the occurrence of HCACs based on the POA indicator and calculate the payment recoupments based on the facts of each HCAC.

(3) Payment to hospitals or ambulatory surgical centers enrolled as MO HealthNet providers for care related only to the treatment of the consequences of an Other Provider-Preventable Condition [such as a serious adverse event] (OPPC) will be denied or recovered by the MO HealthNet Division when [the serious adverse event] the OPPC is determined to—

[(A) Be preventable;]

[(B)](A) Be within the control of the hospital or ambulatory surgical center;

[(C)](B) Have occurred during an inpatient hospital admission, outpatient hospital care, or care in an ambulatory surgical center;

[(D)](C) Have resulted in serious harm; [and]

(D) Otherwise result in an increase in payment of the identified OPPC; and

[(E) Be included on the National Quality Forum list of Serious Reportable Events as of December 15, 2008, non-payable by Medicare as of December 15, 2008. The National Quality Forum list of serious reportable events as of December 15, 2008, includes:

- 1. Surgery performed on the wrong body part;*
- 2. Surgery performed on the wrong patient;*
- 3. Wrong surgical procedure on a patient;*
- 4. Foreign object left in a patient after surgery or other procedure;*
- 5. Intraoperative or immediately post-operative death in a normal health patient;*
- 6. Patient death or serious disability associated with the use of contaminated drugs, devices, or biologics provided by the healthcare facility;*
- 7. Patient death or serious disability associated with the use or function of a device in patient care in which the device is used or functions other than as intended;*
- 8. Patient death or serious disability associated with intravascular air embolism that occurs while being cared for in a healthcare facility;*
- 9. Infant discharged to the wrong person;*
- 10. Patient death or serious disability associated with patient elopement (disappearance) for more than four (4) hours;*
- 11. Patient suicide or attempted suicide resulting in serious disability, while being cared for in a healthcare facility;*

12. Patient death or serious disability associated with a medication error (error involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration);

13. Patient death or serious disability associated with a hemolytic reaction due to the administration of ABO-incompatible blood or blood products;

14. Maternal death or serious disability associated with labor or delivery on a low-risk pregnancy while being cared for in a healthcare facility;

15. Patient death or serious disability associated with hypoglycemia, the onset of which occurs while the patient is being cared for in a healthcare facility;

16. Death or serious disability (*Kernicterus*) associated with failure to identify and treat hyperbilirubinemia in neonates;

17. Stage III or IV pressure ulcers acquired after admission to a healthcare facility;

18. Patient death or serious disability due to spinal manipulative therapy;

19. Patient death or serious disability associated with an electric shock while being cared for in a healthcare facility;

20. Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by toxic substances;

21. Patient death or serious disability associated with a burn incurred from any source while being cared for in a healthcare facility;

22. Patient death associated with a fall while being cared for in a healthcare facility;

23. Patient death or serious disability associated with the use of restraints or bedrails while being cared for in a healthcare facility;

24. Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed healthcare provider;

25. Abduction of a patient of any age; or

26. Sexual assault on a patient within or on the grounds of a healthcare facility;]

(E) Be a wrong surgical or other invasive procedure performed on a patient; surgical or other invasive procedure performed on the wrong body part; surgical or other invasive procedure performed on the wrong patient.

[(F)](4) Other Provider-Preventable Conditions (OPPC) [or serious adverse events] are to be billed as follows:

[1.](A) Medical claims using the CMS 1500 claim form, must be billed with the surgical procedure code and modifier which indicates the type of [serious adverse event] OPPC: modifier PA (wrong body part), PB (wrong patient), or PC (wrong surgery), AND/OR at least one (1) of the diagnosis codes indicating wrong surgery, wrong patient, or wrong body part must be present as one (1) of the first four (4) diagnosis codes on the claim;

[2.](B) Outpatient hospital claims using the CMS 1450 UB-04 claim form or its electronic equivalent must be billed with at least one (1) of the diagnosis codes indicating wrong surgery, wrong patient, or wrong body part within the first five (5) diagnosis codes listed on the claim; [and]

[3.](C) Inpatient hospital claims, using the CMS 1450 UB-04 claim form or its electronic equivalent must be billed with a type of bill 0110.

[A.1]. If there are covered services or procedures provided during the same stay as the [serious adverse event service] OPPC, then the facility must submit two (2) claims; one (1) claim with covered services unrelated to the OPPC event and the other claim for any and all services related to the OPPC event.

[B.2]. The Type of Bill 0110 claim must also contain one (1) of the diagnosis codes indicating wrong surgery, wrong patient, or wrong body part within the first five (5) diagnosis codes listed on the claim.; and

(D) The MO HealthNet Division will identify the occurrence of OPPCs based on the type of bill, diagnoses, procedures, and CPT/HCPCS modifiers submitted on the claim. Payment for the claims will be denied, if appropriate.

[(4)](5) A MO HealthNet participant shall not be liable for payment for an item or service related to an OPPC or HCAC or the treatment of consequences of an OPPC or HCAC that would have been otherwise payable by the MO HealthNet Division.

[(15)] The review process for Provider-Preventable Conditions (PPC) will include a review of the claim and, if applicable, any information provided during the inpatient certification review to determine if the length of stay was extended by the PPC. Medical records will be requested from the provider as needed to complete the review. Providers will be required to submit the medical records to the MO HealthNet Division within thirty (30) days of receipt of the request for records. Medical records will be reviewed by clinically appropriate medical professionals within the MO HealthNet Division or its contracted medical consultants to assess the quality of medical care provided and the circumstances surrounding that care. MO HealthNet payment denials or recoupments will be calculated by the MO HealthNet Division based on the facts of each OPPC or HCAC. The calculation of the denial of payment or recoupment will be reviewed by the MO HealthNet Division Medical Director and the MO HealthNet Division Director after consideration of the review findings provided by the clinical staff who completed the review. The final decision of the division regarding the denial of payment or recoupment shall be subject to review by the Administrative Hearing Commission pursuant to the provisions of section 208.156, RSMo. Such payment limitation shall only apply to the hospital or ambulatory surgical center where the OPPC or HCAC occurred and shall not apply to care provided by other hospitals should the patient subsequently be transferred or admitted to another hospital for needed care.

(6) A MO HealthNet participant shall not be liable for payment, and must not be billed, for any item or service related to a PPC.]

AUTHORITY: sections 208.153 [and], 208.201, and 660.017, RSMo [Supp. 2011] 2016. Material in this rule originally filed as 13 CSR 70-15.200. Original rule filed Nov. 30, 2011, effective June 30, 2012. Amended: Filed Aug. 28, 2018.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions one hundred seventy-nine thousand six hundred and sixty dollars (\$179,660) in the aggregate.

PRIVATE COST: This proposed amendment will save private entities one hundred seventy-nine thousand six hundred and sixty dollars (\$179,660) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in

*support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

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

| | |
|------------------------------|--|
| Rule Number and Name: | 13 CSR 70-3.230 – Payment Policy for Provider Preventable Conditions |
| Type of Rulemaking: | Proposed Amendment |

II. SUMMARY OF FISCAL IMPACT

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|--|--|
| Department of Social Services MO HealthNet Division | Estimated Cost for SFY 2018 = \$179,660 Estimated Ongoing Annual Cost = \$180,000 |

III. WORKSHEET

| Price Calculations for HAC PAQ FY18 | | |
|-------------------------------------|---------------------|-----------|
| Consultant Per Hour Rate | Total Project Hours | Total |
| \$179.66 | 1,000 | \$179,660 |

IV. ASSUMPTIONS

This is a proposed amendment. This rule establishes the MO HealthNet payment policy for services provided by acute care hospitals or ambulatory surgical centers that result in Provider Preventable Conditions, errors in medical care that are clearly identifiable, preventable, and serious in their consequences for patients. This proposed amendment to the rule will allow for adjustment to provider payments for claims with diagnosis identified as Health Care Acquired Conditions (HCAC), and will maintain federal compliance.

**FISCAL NOTE
 PRIVATE COST**

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

| | |
|------------------------------|--|
| Rule Number and Name: | 13 CSR 70-3.230 Payment Policy for Provider Preventable Conditions |
| Type of Rulemaking: | Proposed Amendment |

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|--|---|---|
| 615 | MO HealthNet Hospital Providers | Annual estimated cost for SFY 2018: \$179,660 |

III. WORKSHEET

| Price Calculations for HAC PAQ FY18 | | |
|--|----------------------------|--------------|
| Consultant Per Hour Rate | Total Project Hours | Total |
| \$179.66 | 1,000 | \$179,660 |

IV. ASSUMPTIONS

This is a proposed amendment. This rule establishes the MO HealthNet payment policy for services provided by acute care hospitals or ambulatory surgical centers that result in Provider Preventable Conditions, errors in medical care that are clearly identifiable, preventable, and serious in their consequences for patients. This proposed amendment to the rule will allow for adjustment to provider payments for claims with diagnosis identified as Health Care Acquired Conditions (HCAC), and will maintain federal compliance.

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

PROPOSED AMENDMENT

13 CSR 70-10.070 Limitations on Allowable Nursing Facility Costs to Reserve a Bed for Absences Due to Hospital Admission. The division is amending sections (1), (3), and (5).

PURPOSE: This amendment clarifies the occupancy rate and updates the regulation to reflect the current state agency names, regulations, and terminology referenced in the rule.

(1) Payment to a nursing facility (NF) for hospital leave days is authorized for days in which a Medicaid [recipient] participant is absent from the NF due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the following:

(C) The occupancy rate of the NF is at or above ninety-seven [point zero] percent [(97.0%)] (97.00%), rounded to four (4) decimal places (i.e., 0.9700 or 97.00%), of Medicaid certified [licensed] beds[,] for the quarter prior to the [first day of services provided based on the census for that quarter provided from the Division of Aging to the Division of Medical Services] quarter during which hospital leave is taken. The occupancy rate is based on the data from the Certificate of Need (CON) Quarterly Survey from the Department of Health and Senior Services. The quarters referenced herein are calendar year quarters (i.e., January - March, April - June, July - September, and October - December);

(D) The Medicaid [recipient] participant is admitted to a hospital for a medical condition, which cannot be treated on an outpatient basis, with a total stay of three (3) days or less; and

(E) The hospital provides a discharge plan for the [recipient] participant which includes returning to the facility requesting the hospital leave days.

(3) The hospital leave days billed by the nursing facility shall be held in suspense until the nursing home bill, hospital bill, and quarterly census [has] have been received by the [Division of Medical Services] MO HealthNet Division so appropriate payment can be determined.

(5) For each day that Medicaid reimburses a nursing facility, pursuant to this subsection, the Medicaid [recipient] participant shall be ineligible for reimbursement to nursing facilities for two otherwise available temporary leave of absence days as described in [13 CSR 70-10.010(5)(D)] 13 CSR 70-10.015(5)(D). The total hospital leave days and temporary leave of absence days shall not exceed the limits for the periods defined in [13 CSR 70-10.010(5)(D)] 13 CSR 70-10.015(5)(D).

AUTHORITY: sections 208.153, [RSMo Supp. 1991,] 208.159, [RSMo 1986 and] 208.201, and 660.017, RSMo [Supp. 1987] 2016. Emergency rule filed Dec. 17, 1993, effective Dec. 27, 1993, expired April 25, 1994. Emergency rule filed April 15, 1994, effective May 1, 1994, expired Aug. 28, 1994. Original rule filed Nov. 2, 1993, effective June 6, 1994. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

13 CSR 70-10.160 [Public/Private Long-Term Care Services and Supports Partnership Supplemental Payment to Nursing Facilities] Public Nursing Facility Upper Payment Limit payments. The division is amending the title of the rule, the purpose, deleting section (1), renumbering section (2) as section (1), and amending the new section (1).

PURPOSE: This proposed amendment modifies the title of the rule to better describe the contents of the amended rule, removes the language relating to the reimbursement methodology that the MO HealthNet Division no longer uses to make payments, updates the rule sections referenced in the rule, clarifies when the UPL payments will be made, and defines public nursing facility.

PURPOSE: This rule implements a supplemental payment program for qualifying [private and] public nursing facilities.

[(1) Effective for dates of service on or after April 1, 2012, through June 30, 2013, supplemental payments will be made as set forth in subsections (1)(A)–(1)(D) in each following calendar quarter from the Long-Term Support Upper Payment Limit (UPL) Fund to qualifying private and public nursing facilities for services rendered during the quarter on or after April 1, 2012 through June 30, 2013. Maximum payments to all qualifying private and public nursing facilities shall not exceed the upper payment limit defined in 42 CFR 447.272 in each state fiscal year.

(A) Qualifying Criteria. The nursing facilities named in Section (13)(E)7. of the Medicaid State Plan are eligible for the Partnership Supplemental Payment and shall be referred to as qualifying nursing facilities. In addition, to qualify for the supplemental payment, a private or public nursing facility must be enrolled in MO HealthNet at the time the supplemental payment is calculated and made.

1. A private nursing facility is defined as being owned and operated by a private entity.

2. A public nursing facility is defined as being owned or operated by a public entity.

(B) Reimbursement Methodology. Qualifying private and public nursing facilities are eligible to receive supplemental payments for nursing facility services. Supplemental payments will be made in each calendar quarter after April 1, 2012.

1. Calculating qualifying nursing facilities quarterly Partnership Supplemental Per Diems—The quarterly per diem amount for each qualifying nursing facility shall be calculated as follows:

A. Dividing the available annual funding listed in Section (13)(E)6. of the Medicaid State Plan by the number of quarters in the fiscal period to obtain the quarterly funding amount;

B. Allotment between qualifying publicly owned and qualifying privately owned nursing facilities will be calculated as follows:

(I) The allotment for qualifying publicly owned nursing facilities will be the funding in subparagraph (1)(B)1.A.

of this rule multiplied by eighty percent (80%); and

(II) The allotment for qualifying privately owned nursing facilities will be the funding calculated in subparagraph (1)(B)1.A. of this rule multiplied by twenty percent (20%);

C. The public nursing facility per diem is calculated by dividing the amount calculated in part (1)(B)1.B.(I) of this rule by the number of Medicaid paid days from the previous full state fiscal year divided by the four (4) quarters in the year for all qualifying public nursing facilities enrolled in the Medicaid program at the time the supplemental payments are made; and

D. The private nursing facility per diem is calculated by dividing the amount calculated in part (1)(B)1.B.(II) of this rule by the number of Medicaid paid days from the previous full state fiscal year divided by the four (4) quarters in the year for all qualifying private nursing facilities enrolled in the Medicaid program at the time the supplemental payments are made.

2. Calculating qualifying nursing facilities' quarterly Partnership Supplemental Payments—The quarterly payment amount for each qualifying nursing facility enrolled in the Medicaid program shall be calculated as follows:

A. Each Medicaid enrolled qualifying nursing facility's Medicaid paid days from the previous full state fiscal year divided by the four (4) quarters in the year shall be multiplied by the Partnership Supplemental Payment per diem calculated in subparagraph (1)(B)1.C. of this rule for qualifying public nursing facilities and subparagraph (1)(B)1.D. of this rule for qualifying private nursing facilities to obtain each qualifying nursing facility's quarterly amount.

3. The time period used in calculating paragraphs (1)(B)1. and 2. of this rule will be the most recent state fiscal year for which data is available for the full fiscal year.

(C) Payment Limitations.

1. Public Nursing Facilities—Annual payment distributions for all qualifying individual public nursing facilities enrolled in the Medicaid program shall be limited to the qualifying individual public nursing facility's annual amount of unreimbursed Medicaid costs.

2. Private Nursing Facilities—Annual payment distributions for all qualifying private nursing facilities enrolled in the Medicaid program shall be limited to the difference between the qualifying nursing facility's Medicare equivalent payments as determined in the Medicare upper payment limit calculation and Medicaid payments the qualifying nursing facility receives for covered services provided to Medicaid recipients.

3. Any amount over the payment limitation for a qualifying individual nursing facility will be distributed to qualifying nursing facilities enrolled in the Medicaid program that have not reached their payment limitations as follows:

A. If any qualifying public nursing facility reaches its limitation described in paragraph (1)(C)1. above—

(I) The amount exceeding the limitation will be divided by the Medicaid days for the qualifying public nursing facilities enrolled in the Medicaid program within the pool that have not exceeded their limitations to obtain an additional Partnership Supplemental Payment Per Diem;

(II) This additional per diem will be paid to each qualifying public nursing facility enrolled in the Medicaid program that has not exceeded its limitation by multiplying the facility's Medicaid days by the per diem calculated in part (1)(C)3.A.(I) of this rule;

(III) The calculation in parts (1)(C)3.A.(I) and (II) of this rule will be repeated until the entire amount allocated to qualifying public nursing facilities enrolled in the Medicaid program has been expended or all of the qualifying public facilities enrolled in the Medicaid program have reached their

limits as specified in paragraph (1)(C)1. of this rule; and

(IV) If any funding amount from the public allocation remains, it will be used to make Partnership Supplemental Payments to qualifying private nursing facilities enrolled in the Medicaid program.

B. If any qualifying private nursing facility reaches its limitation described in paragraph (1)(C)2. above—

(I) The amount exceeding the limitation will be divided by the Medicaid days for the qualifying private nursing facilities enrolled in the Medicaid program within the pool that have not exceeded their limitations to obtain an additional Partnership Supplemental Payment Per Diem;

(II) This additional per diem will be paid to each qualifying private nursing facility enrolled in the Medicaid program that has not exceeded its limitation by multiplying the facility's Medicaid days by the per diem calculated in part (1)(C)3.B.(I) of this rule;

(III) The calculation in parts (1)(C)3.B.(I) and (II) of this rule will be repeated until the entire amount allocated to qualifying private nursing facilities has been expended or all of the qualifying private facilities have reached their limits as specified in paragraph (1)(C)2. of this rule; and

(IV) Any remaining funding from the private allocation will be used to make Partnership Supplemental Payments to public nursing facilities.

C. Any remaining quarterly funding from either pool that cannot be paid due to payment limitations will be used in the reconciliation process described in subsection (1)(D) of this rule.

4. The time period used in calculating subsection (1)(C) of this rule will be the most recent state fiscal year for which data is available for the full fiscal year.

(D) Partnership Supplemental Payment Reconciliation—Prior to making payments each quarter, the department will calculate a reconciliation factor by—

1. Determining an amended aggregate payment amount by adjusting the available funding amount by any residual amount from subparagraph (1)(C)3.C. of this rule;

2. Dividing the amount established in paragraph (1)(D)1. of this rule by the original available funding amount to establish the reconciliation factor; and

3. The reconciliation factor from paragraph (1)(D)2. of this rule will be applied to the payments identified in subsection (1)(B) of this rule that are made during that fiscal year unless the department is unable to make the adjustment during the fiscal year due to the timing of the payments. In that case, the payments for the subsequent fiscal year will be adjusted by the difference between the amounts from paragraph (1)(D)1. of this rule and the available annual funding amount listed in Section (13)(E)6. of the Medicaid State Plan.]

[(2)](1) Effective for dates of service beginning July 1, 2013, Nursing Facility **Upper Payment Limit (UPL) [P]** payments shall be made as set forth below in subsections [(2)(A)–(2)(C)] **(1)(A)–(1)(C)**. Maximum aggregate payments to all qualifying nursing facilities shall not exceed the [upper payment limit] **UPL** defined in 42 CFR 447.272 in each state fiscal year.

(A) An annual UPL [P] payment shall be made [at] after the end of each state fiscal year (SFY) to qualifying nursing facilities.

(B) Qualifying Criteria. Public nursing facilities that have executed an agreement with the department are eligible for a UPL [P] payment and shall be referred to as qualifying nursing facilities. In addition, to qualify for the UPL [P] payment, each nursing facility must be enrolled in the Medicaid program at the time the UPL payments are calculated and made.

1. A public nursing facility is defined as being owned or operated by a public entity.

(C) Reimbursement Methodology. The annual UPL [P] payment

will be made to qualifying nursing facilities based on each facility's unreimbursed costs determined from the facility's second prior year Medicaid cost report, subject to the Medicare Upper Payment Limit.

AUTHORITY: sections 208.201[, RSMo Supp. 2014] and 660.017, RSMo 2016. Original rule filed Feb. 15, 2012, effective Aug. 30, 2012. Amended: Filed July 1, 2013, effective Jan. 30, 2014. Amended: Filed Aug. 15, 2014, effective Feb. 28, 2015. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.030 Drugs Covered by [Medicaid] the MO HealthNet Pharmacy Program. The department is amending the title, purpose statement, and sections (1), (2), and (3).

PURPOSE: The purpose of this amendment is to update the rule to reference the federal guidelines.

PURPOSE: This rule implements recent changes in drug coverage as mandated by [federal Health Care Financing Administration] the Centers for Medicare & Medicaid Services (CMS).

(1) [Limiting Definition—As defined in the Social Security Act, section 1927(k)(3), the term covered outpatient drug does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as any of the following (and for which payment may be made under this title as part of payment for the following and not as direct reimbursement for the drug):] **Drugs covered under the MO HealthNet Pharmacy Program must meet the definition of a covered outpatient drug as defined in the Social Security Act, section 1927(k)(2) and section 1927(k)(3), as amended.**

["(A) Inpatient hospital services.

“(B) Hospice services.

“(C) Dental services, except that drugs for which the state plan authorized direct reimbursement to the dispensing dentist are covered outpatient drugs.

“(D) Physicians' services.

“(E) Outpatient hospital services.

“(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.

“(G) Other laboratory and x-ray services.

“(H) Renal dialysis.

“Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically

accepted indication.”]

(2) Participating Manufacturers—[The Missouri Division of Medical Services identifies those manufacturers whose products are reimbursable along with effective dates of coverage, based on date of service, corresponding to effective dates of their participation under the national rebate contract.] **The MO HealthNet Division identifies those manufacturers who have entered into a rebate agreement according to the Social Security Act, section 1927(a)(1), as amended.** All products marketed by participating manufacturers are reimbursable, with the following exceptions: those products identified as Drug Efficacy Study Implementation (DESI) drugs by the federal Food and Drug Administration (FDA); products considered by the federal FDA to be similar, identical or related to a DESI product; products identified in 13 CSR 70-20.031 [and 13 CSR 70-20.032]; and products not meeting the definition of drug in sections 505, 506, and 507 of the federal Food, Drug and Cosmetic Act.

[[3] According to the federal Social Security Act, section 1927(a)(1) in order for federal financial participation to be available for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement with the secretary of the federal Department of Health and Human Services. States are periodically notified by the federal Health Care Financing Administration of manufacturers that have entered into as well as terminated rebate agreements with the secretary of the federal Department of Health and Human Services. The Missouri Medicaid Pharmacy Manual and updating bulletins shall provide the detailed listing of manufacturers that have in effect a rebate agreement with the federal Department of Health and Human Services.]

AUTHORITY: sections 208.152, 208.153, [and] 208.201, and 660.017, RSMo [1994] 2016. This rule was previously filed as 13 CSR 40-81.010. Original rule filed Jan. 21, 1964, effective Jan. 31, 1964. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 3—Aftercare Responsibilities**

PROPOSED RESCISSION

13 CSR 110-3.015 Safe School Act Procedures. This rule identified offenses which were included in the 1996 Safe Schools Act (HB 1301) Safe Schools Act, section 167.171, RSMo, and required an educational plan be developed for youth in DYS custody who were involved in Safe School Act violations.

PURPOSE: This rule is being rescinded as it is not necessary since these issues are adequately addressed in both statute (Safe School Act, 167.171, RSMo) and in division policy.

AUTHORITY: section 219.036, RSMo 1994. Original rule filed Feb. 10, 2000, effective Aug. 30, 2000. Rescinded: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 3—Aftercare Responsibilities**

PROPOSED RESCISSION

13 CSR 110-3.020 Aftercare Involvement During Residential Treatment. This rule outlined the service coordinator's involvement with facility staff, the youth, their family and the community to facilitate appropriate treatment and aftercare planning while the youth was in a residential treatment program.

PURPOSE: This rule is being rescinded as it is not necessary since these issues are adequately addressed in division policy.

AUTHORITY: section 219.036, RSMo 1994. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Amended: Filed Feb. 10, 2000, effective Aug. 30, 2000. Rescinded: Filed Aug. 28, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED 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.

(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. Amended: Filed Aug. 23, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, PO Box 1409, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 70—Safe at Home: Address Confidentiality Program

PROPOSED 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.

(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. Amended: Filed Aug. 23, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, PO Box 1409, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 70—Safe at Home: Address Confidentiality Program

PROPOSED 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.

(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 canceled **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. Amended: Filed Aug. 23, 2018.

PUBLIC COST: This proposed amendment will not cost state agen-

cies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, PO Box 1409, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED 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.

(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. Amended: Filed Aug. 23, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

Office of the Secretary of State, PO Box 1409, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

PROPOSED 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.

(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. Amended: Filed Aug. 23, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, PO Box 1409, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

PROPOSED 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.

(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. Amended: Filed Aug. 23, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, PO Box 1409, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

PROPOSED 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.

(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. Amended: Filed Aug. 23, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, PO Box 1409, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED 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.

(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 indi-

viduals;

[(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. Amended: Filed Aug. 23, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, PO Box 1409, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED 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.

(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. Amended: Filed Aug. 23, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in

support of or in opposition to this proposed amendment with the Office of the Secretary of State, PO Box 1409, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 73—Missouri Board of Nursing Home
Administrators
Chapter 2—General Rules**

PROPOSED RULE

**19 CSR 73-2.023 Procedures and Requirements for Limited
Licensure of Administrators**

PURPOSE: This rule specifies the minimum requirements for limited licensure as a nursing home administrator in Missouri as outlined in section 344.030.3, RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) An applicant interested in becoming a licensed nursing home administrator in an institution certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc. as outlined in section 344.030.3, RSMo, shall either file an application on a form furnished by the board or through the board's electronic online system. The application form, MO 580-2518 (03-11), Application for Licensure NHA, is incorporated by reference in this rule and is available on the web at www.health.mo.gov/information/boards/bnha or by contacting the board at PO Box 570, Jefferson City, MO 65102, (573) 751-3511. This rule does not incorporate any subsequent amendments or additions. The application shall be completed and returned to the board with the fee referenced in 19 CSR 73-2.015. Information provided in the application shall be attested by signature to be true and correct to the best of the applicant's knowledge and belief.

(2) The completed application for the limited licensure pursuant to section 344.030.3, RSMo, shall provide satisfactory proof that the applicant has met the following minimum requirements:

(A) Eighteen (18) years of age or over;

(B) A high school diploma or equivalent;

(C) Of good moral character; and

(D) Has not been convicted of any crime, an essential element of which is fraud, dishonesty or moral turpitude, or which involves the operation of a long-term care facility or other health-care facility, whether or not sentence was imposed. A copy of the record of conviction or plea of guilty or nolo contendere shall be conclusive evidence of the conviction.

(3) The applicant shall be eligible to take the state examination upon board approval and payment of the required examination fees.

(4) If the board determines the applicant has failed to meet one (1) of the criteria outlined in this rule, the applicant may submit additional information for reevaluation if done so no later than two (2) weeks prior to the next board meeting. The applicant shall be given notice of the next board meeting date.