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SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI
REGISTER

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

HOW TO CITE RULES AND RSMO

RULES

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

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

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

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

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

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

Code and Register on the Internet

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

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

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

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

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

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

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

**Title 1—OFFICE OF ADMINISTRATION
Division 40—Purchasing and Materials Management
Chapter 1—Procurement**

EMERGENCY AMENDMENT

1 CSR 40-1.050 Procedures for Solicitation, Receipt of Bids, and Award and Administration of Contracts. The division is amending section (10).

PURPOSE: This amendment changes the bonus points awarded for utilization of blind and sheltered workshops in state contracting.

EMERGENCY STATEMENT: This emergency amendment informs state agencies and potential vendors that the awarding of bonus points under section 34.165, RSMo has been changed due to the passage of House Bill 1879 of 2018. This emergency amendment is necessary to protect governmental interests as the statute requires these bonus points for state contract solicitations to be set by regulation, and without this emergency amendment, such points cannot be awarded during the evaluation process. As a result, the Division of Purchasing finds a compelling governmental interest, which requires this emergency action. A proposed amendment covering this same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Division of Purchasing believes this emergency amendment is fair to

all interested persons and parties under the circumstances. This emergency amendment was filed September 5, 2018, becomes effective September 15, 2018, and expires March 13, 2019.

(10) Section 34.165, RSMo, provides for a [~~ten- (10-)] five to fifteen (5-15) point bonus on bids/proposals submitted by qualified nonprofit organizations for the blind and qualified sheltered workshops, if the participating organization provides, at a minimum, the greater of two percent (2%) or five thousand dollars (\$5,000) of the total contract value of bids/proposals for a purchase not exceeding ten (10) million dollars.~~

(E) If all requirements are met, the bidder/offeror shall receive a [~~ten (10)] five to fifteen (5-15)-] point bonus to a bid/proposal meeting specifications or bid/proposal that includes subjective or other criteria deemed in the best interest of the state and provided in the solicitation document.~~

1. A sliding scale for the award of points shall range from a minimum of five (5) points to a maximum of fifteen (15) points. The award of the minimum five (5) points shall be based on the bid/proposal containing a commitment that the participating nonprofit organization or workshop is providing the greater of two percent (2%) or five thousand dollars (\$5,000) of the total contract value of bids for purchase not exceeding ten (10) million dollars.

2. Where the commitment in the bid/proposal exceeds the minimum level set forth in section 34.165, RSMo to obtain five (5) points, the awarded points shall exceed the minimum five (5) points, up to a maximum of fifteen (15) points. As the statute sets out a minimum of five (5) points for a minimum two percent (2%) commitment, each percent of commitment is worth two and one-half (2.5) points. The formula to determine the awarded points for commitments above the two percent (2%) minimum shall be calculated based on the commitment in the bid/proposal (expressed as a number, not as a percentage) times two and one-half (2.5) points:

Vendor's Commitment Number x 2.5 points = Awarded Points

Examples: A commitment of three percent (3%) would be calculated as: 3×2.5 points = 7.5 awarded points. A commitment of five and one-half percent (5.5%) would be calculated as: 5.5×2.5 points = 13.75 awarded points. If, instead of a percentage, an offeror's bid/proposal lists a dollar figure that is over the minimum amount, the dollar figure shall be converted into the percentage of the offeror's total contract value for calculation of the awarded points. Commitments at or above six percent (6%) receive the maximum of fifteen (15) points.

AUTHORITY: sections 34.050, [RSMo 2000,] and [section] 34.074, RSMo [Supp. 2013] 2016. Original rule filed Oct. 15, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. This emergency amendment was filed Sept. 5, 2018, becomes effective Sept. 15, 2018, expires March 13, 2019. A proposed amendment covering this same material will be filed at a later date to be published in the *Missouri Register*.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 10—Office of the Director
Chapter 10—Vital Records**

EMERGENCY AMENDMENT

19 CSR 10-10.130 Missouri Adoptee Rights. The Department of

Health and Senior Services is amending sections (1), (2), (3), (5), (7), (8), and (10), adding new sections (4), (6), (9), and (11), deleting previous section (5), and renumbering as necessary.

PURPOSE: This rule is being amended to provide the process for the birth parent to receive a copy of the adoptee original birth certificate, the process for an adoptee to state his or her preference regarding whether and how the birth parent can contact him or her, and provide the process for lineal descendants of a deceased adoptee to receive a copy of the adoptee's original birth certificate.

EMERGENCY STATEMENT: The Missouri Adoptee Rights Act was established in August 2016, and includes sections 193.125 and 193.128, RSMo. In August 2016, adoptees or adoptees' attorneys were allowed to obtain copies of adoptees' original birth certificates and birth parents of adoptees were able to file contact preference forms, which accompany the original birth certificates. Senate Committee Substitute for House Committee Substitute for House Bill 1713, 99th General Assembly, Second Regular Session (2018), went into effect on August 28, 2018. This act amends section 193.128, RSMo, to allow birth parents to obtain copies of adoptees' original birth certificates and to allow lineal descendants of deceased adoptees to obtain copies of deceased adoptees' original birth certificates, accompanying contact preference forms, and medical history forms. In addition, beginning August 28, 2018, adoptees may file contact preference forms indicating they wish to be contacted directly, do not wish to be contacted, or only wish to be contacted through an intermediary. In order to implement and comply with the new law on August 28, 2018, this rule must be amended and the forms must be available on August 28, 2018, or as soon as possible thereafter. As a result of the immediate effective date, the Department of Health and Senior Services finds a compelling governmental interest which requires an early effective date for this rule. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Health and Senior Services believes this emergency amendment is fair to all interested persons and parties under these circumstances. This emergency amendment was filed September 10, 2018, becomes effective September 20, 2018, and expires March 18, 2019.

PURPOSE: This rule provides the process for an adoptee, an adoptee's attorney, and the birth parents of an adoptee to receive a copy of [his or her] the adoptee's original birth certificate, the process for a birth parent and the adoptee to state his or her contact preference[, and] regarding whether and how the adoptee/birth parent can contact him or her, the process for completion of a medical history form by a birth parent, and the process for lineal descendants of a deceased adoptee to receive a copy of the adoptee's original birth certificate.

(1) For purposes of this rule only, unless the context clearly indicates otherwise, the following terms mean:

(B) "Adoptee Contact Preference Form," a form used by an adoptee to indicate his or her preference about contact with the birth parent(s);

[(B)](C) "Applicant," the person completing application for a form or certificate as specified in this rule and may be the adoptee [or the], adoptee's attorney, birth parent, or lineal descendant of a deceased adoptee;

[(C)](D) "Attorney," a currently-licensed member of the Missouri Bar or bar of another state of the United States;

[(D)](E) "Birth parent," the parent(s) identified on the adoptee's original birth certificate;

[(E)](F) "Birth Parent Contact Preference Form," a form used by a birth parent to indicate his or her preference about contact with the

adoptee;

[(F)](G) "Birth Parent Medical History Form," a form used by a birth parent to provide his or her medical history information to the adoptee;

[(G)](H) "Department," the Missouri Department of Health and Senior Services;

[(H)](I) "Identifying information," the name, date of birth, [age, race,] place of birth, [occupation/industry/business, and address of the birth parent(s); any part of the child's name or any other name containing surnames of either birth parent; and informant name] and last known address of the biological parent;

[(I)](J) "Intermediary," the person or agency identified by the birth parent or adoptee to act as a means of contact between the birth parent and adoptee;

(K) "Lineal descendant," a person who is in direct line to an ancestor, such as child, grandchild, great-grandchild, and so on, either by blood or legal adoption. This does not include a step-child or collateral descendant. Collateral descendants are those from the line of a brother, sister, aunt, or uncle;

[(J)](L) "Original birth certificate," the adoptee's registered birth certificate sealed upon court order at the time of adoption;

[(K)](M) "Redact," to obscure or remove identifying information.

(2) Birth Parent Contact Preference Form. A birth parent may state his or her preference for contact with the adoptee by completing a Cover Sheet for Birth Parent Contact Preference Form [as published August 2016] and a Birth Parent Contact Preference Form as published [November 2016] August 2018 which are incorporated by reference in this rule and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. Completed forms may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(D) If a birth parent has filed a Birth Parent Contact Preference Form with the department, the department shall provide a copy of the form to the adoptee, adoptee's attorney, or lineal descendant applicant.

(E) If a birth parent has filed more than one (1) Birth Parent Contact Preference Form, the department shall issue a copy of only the most recently dated Birth Parent Contact Preference Form to the adoptee, adoptee's attorney, or lineal descendant applicant.

(F) The Birth Parent Contact Preference Form issued to the adoptee, adoptee's attorney, or lineal descendant shall not include the Cover Sheet for Birth Parent Contact Preference Form.

(G) The department shall not issue a copy of the original birth certificate to the adoptee, adoptee's attorney, birth parent, or lineal descendant applicant when—

1. The applicant does not meet the requirements of section 193.12/5/8, RSMo, and this rule; or

2. Both birth parents have filed a Birth Parent Contact Preference Form indicating that they prefer not to be contacted or prefer contact through an intermediary.

(H) The department shall issue a non-certified, unredacted copy of the original birth certificate stamped "For genealogical purposes only-not to be used for establishing identity" upon request to a qualified adoptee, adoptee's attorney, birth parent, or lineal descendant applicant when—

1. The original birth certificate lists two (2) parents and neither birth parent has filed a Birth Parent Contact Preference Form;

2. The original birth certificate lists two (2) parents and both have filed a Birth Parent Contact Preference Form indicating he/she prefers to be contacted;

3. The original birth certificate lists two (2) parents and one (1) parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers to be contacted and the other parent has not filed a Birth Parent Contact Preference Form;

4. The original birth certificate only lists one (1) parent and that parent has filed a Birth Parent Contact Preference Form indicating

that he/she prefers to be contacted; or

5. The original birth certificate only lists one (1) parent and that parent has not filed a Birth Parent Contact Preference Form.

(I) The department shall issue a non-certified copy of the original birth certificate stamped "For genealogical purposes only—not to be used for establishing identity" to the **adoptee, adoptee's attorney, birth parent, or lineal descendant** applicant with the identifying information redacted for the birth parent who indicated they prefer not to be contacted or preferred to be contacted by an intermediary when—

1. The original birth certificate only lists one (1) parent and that parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers not to be contacted or prefers contact by an intermediary;

2. The original birth certificate lists two (2) parents and one (1) parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers not to be contacted or prefers contact through an intermediary and the other parent has not filed a Birth Parent Contact Preference Form; or

3. The original birth certificate lists two (2) parents and one (1) parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers not to be contacted or prefers contact through an intermediary and the other parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers to be contacted.

(3) Birth Parent Medical History Form. A birth parent may provide or update his or her medical history by completing a Cover Sheet for Birth Parent Medical History Form and a Birth Parent Medical History Form as published August 2018 which are incorporated by reference in this rule [as published August 2016] and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. Completed forms may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(E) The department shall not use the information on the Cover Sheet for Birth Parent Medical History Form or Birth Parent Medical History Form for statistical or any other purposes and shall not disclose the information to anyone other than the adoptee [or the], adoptee's attorney, or lineal descendant applicant.

(F) The copy of the Birth Parent Medical History Form issued to the adoptee, adoptee's attorney, or lineal descendant shall not include the Cover Sheet for Birth Parent Medical History Form.

(4) Adoptee Contact Preference Form. An adoptee may state his or her preference for contact with the birth parent(s) by completing a Cover Sheet for Adoptee Contact Preference Form and an Adoptee Contact Preference Form as published August 2018 which are incorporated by reference in this rule and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. Completed forms may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) An adoptee shall provide to the department adequate information as requested on the Cover Sheet for Adoptee Contact Preference Form so that the department can identify the correct sealed file in which to place the form. An adoptee shall also pay a non-refundable fee for processing the form and searching for the original birth record in an amount equal to the fee for a certified copy of a birth certificate. If the department is unable to identify the correct sealed file based upon the information provided by the adoptee on the Cover Sheet for Adoptee Contact Preference Form, the department shall return the Cover Sheet for Adoptee Contact Preference Form and the Adoptee Contact Preference Form to the adoptee.

(B) An adoptee may change his or her contact preference by

completing a new Cover Sheet for Adoptee Contact Preference Form and Adoptee Contact Preference Form. An adoptee shall also pay a non-refundable fee for processing the form and searching for the original birth record in an amount equal to the fee for a certified copy of a birth certificate. The forms and fee shall be mailed or delivered to the department at the address listed in section (4) above. If the department is unable to identify the correct sealed file based upon the information provided by the adoptee on the Cover Sheet for Adoptee Contact Preference Form, the department shall return the Cover Sheet for Adoptee Contact Preference Form and the Adoptee Contact Preference Form to the adoptee.

(C) An adoptee may request that a birth parent contact him or her only through an intermediary, rather than be contacted directly by the birth parent, as indicated by the adoptee on the Adoptee Contact Preference Form. In this case, the adoptee shall write the name and contact information of the intermediary on the Adoptee Contact Preference Form.

(D) If an adoptee has filed an Adoptee Contact Preference Form with the department, the department shall provide a copy of the form to the birth parent and lineal descendant applicant.

(E) If an adoptee has filed more than one (1) Adoptee Contact Preference Form, the department shall issue a copy of only the most recently dated Adoptee Contact Preference Form to the birth parent or lineal descendant applicant.

(F) The Adoptee Contact Preference Form issued to the birth parent and lineal descendant applicant shall not include the Cover Sheet for Adoptee Contact Preference Form.

[(4)](5) Adoptee[s born before 1941], Adoptee's Attorney, and Birth Parent Request for Original Birth Certificate. An adoptee [born before 1941], [or the] adoptee's attorney, or birth parent may request a copy of the adoptee's original birth certificate [beginning August 28, 2016,] by completing an Application for Non-Certified Copy of an Original Birth Certificate by Adoptee, Adoptee's Attorney, or Birth Parent form which is incorporated by reference in this rule as published [November 2016] August 2018 and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. The application shall include a non-refundable fee in an amount equal to the fee for a certified copy of a birth certificate. Completed forms and fees may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) If the adoptee's attorney submits the Application for Non-Certified Copy of an Original Birth Certificate by Adoptee, Adoptee's Attorney, or Birth Parent form, the attorney shall provide the department with a statement signed by the adoptee or other documentation establishing the attorney's authority to act on behalf of the adoptee.

(B) The applicant shall furnish to the department adequate information as requested on the Application for Non-Certified Copy of an Original Birth Certificate Adoptee, Adoptee's Attorney, or Birth Parent form so that the department can identify the correct sealed file containing the original birth certificate.

(C) The department shall issue copies of the original birth certificate to the adoptee, adoptee's attorney, or birth parent(s) as provided in subsections (2)(G)-(I) of this rule. If the department cannot locate the original birth certificate, the department shall issue to the applicant a written statement that no record was found.

(D) The copy of the original birth certificate issued to the adoptee, adoptee's attorney, or birth parent applicant shall be stamped "For genealogical purposes only—not to be used for establishing identity."

(E) If the adoptee's birth parent(s) have provided a Birth Parent Contact Preference Form or Birth Parent Medical History Form to the department, the department shall provide a copy to the adoptee, adoptee's attorney, or lineal descendant applicant.

[(5)] Adoptees born in or after 1941. An adoptee born in or after 1941, or the adoptee's attorney, may request a copy of the adoptee's original birth certificate beginning January 1, 2018. To make a request, an applicant shall complete the Application for Non-Certified Copy of an Original Birth Certificate form which is incorporated by reference in this rule as published November 2016 and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. The application shall include a non-refundable fee in an amount equal to the fee for a certified copy of a birth certificate. Completed forms and fees may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) If the adoptee's attorney submits the Application for Non-Certified Copy of an Original Birth Certificate form, the attorney shall provide the department with a statement signed by the adoptee or other documentation establishing the attorney's authority to act on behalf of the adoptee.

(B) The applicant shall furnish to the department adequate information as requested on the Application for Non-Certified Copy of an Original Birth Certificate form so that the department can identify the correct sealed file containing the original birth certificate.

(C) The department shall issue copies of the birth certificate as provided in subsections (2)(G)-(I) of this rule. If the department cannot locate the original birth certificate, the department shall issue to the applicant a written statement that no record was found.

(D) The copy of the original birth certificate issued to the applicant shall be stamped "For genealogical purposes only—not to be used for establishing identity."

(E) If the adoptee's parent(s) have provided a Birth Parent Contact Preference Form or Birth Parent Medical History Form to the department, the department shall provide a copy to the applicant.]

(6) Lineal Descendant Request for Original Birth Certificate. Lineal descendants of a deceased adoptee may request a copy of the adoptee's original birth certificate by completing an Application for Non-Certified Copy of an Original Birth Certificate by Lineal Descendant form which is incorporated by reference in this rule as published August 2018 and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. The application shall include a non-refundable fee in an amount equal to the fee for a certified copy of a birth certificate. Completed forms and fees may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) The applicant shall furnish to the department adequate information as requested on the Application for Non-Certified Copy of an Original Birth Certificate by Lineal Descendant form so that the department can identify the correct sealed file containing the original birth certificate.

(B) The department shall not issue a copy of the original birth certificate to the applicant when—

1. The applicant cannot provide a certified death certificate of the adoptee; or

2. The applicant cannot provide documentation that confirms the applicant is a lineal descendant of the adoptee.

(C) The department shall issue copies of the original birth certificate to the lineal descendant as provided in subsections (2)(G)-(I) of this rule. If the department cannot locate the original birth certificate, the department shall issue to the applicant a written statement that no record was found.

(D) The copy of the original birth certificate issued to the appli-

cant shall be stamped "For genealogical purposes only—not to be used for establishing identity."

(E) If the adoptee's birth parent(s) have provided a Birth Parent Contact Preference Form or Birth Parent Medical History Form to the department, or the adoptee has provided an Adoptee Contact Preference Form to the department, the department shall provide a copy of the form(s) to the lineal descendant applicant.

[(6)](7) Applicants, birth parents, or others shall not send to the department items other than the forms prescribed by this regulation (e.g., letters, papers, photos, mementos, etc). Any such items sent to the department shall be discarded.

[(7)](8) The department shall not issue copies of vital records, including birth, death, marriage, or divorce records, for the birth parents to an adoptee, adoptee's attorney, or lineal descendant of the adoptee.

(9) The department shall not release any information pertaining to the adoptee other than the original birth certificate or Adoptee Contact Preference form, if completed, to the birth parent.

[(8)](10) The department shall not amend the adoptee's original birth certificate as defined in this rule.

(11) When the state registrar of vital records finds evidence that an application was made through misrepresentation or fraud, he or she shall have authority to withhold issuance of a certificate until a court determination of facts has been made.

AUTHORITY: sections 193.035[,] and 193.045, *RSMo 2016*, and section 193.128, *RSMo [2016] Supp. 2018*. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective Feb. 28, 2017. Emergency amendment filed Sept. 10, 2018, effective Sept. 20, 2018, expires March 18, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES Division 30—Division of Regulation and Licensure Chapter 1—Controlled Substances

EMERGENCY AMENDMENT

19 CSR 30-1.023 Registration Changes. The department is amending sections (1) and (2).

PURPOSE: This amendment allows authorized registrants to modify their registration to allow the collection of unwanted controlled substances.

EMERGENCY STATEMENT: Opioid abuse is a public health crisis in Missouri and throughout the country. In 2016, there was a thirty-five percent (35%) increase in opioid overdose deaths over 2015. During 2016, one (1) out of every sixty-six (66) deaths was opiate related. Additionally, the number of infants born with opiate-related natal abstinence syndrome is increasing. Studies have found that a large percentage of people who abuse controlled substances get those substances from family members, homes, and leftover prescriptions. One (1) way to impact the opioid crisis is to provide methods for safe, efficient disposal of extra or unwanted controlled substances, including opioids, so that they are not diverted. Prior to portions of Senate Bill 826 (2018) taking effect, Missouri's controlled substance law prohibited collection of controlled substances by registrants who had not originally prescribed the substance. This meant that pharmacies

and other registrants could not maintain collection receptacles for disposal of unwanted controlled substances by customers and patients. Drug take-back events were allowed, and four (4) such events collected tens of thousands of pounds of drugs during 2016 and 2017. Now that Senate Bill 826 (2018) is in effect, amendments to this regulation are necessary to implement the provisions of the bill so that registrants can begin maintaining collection receptacles as soon as possible. Without such receptacles, people who wish to properly dispose of controlled substances must retain them in their homes until a take-back event is held, increasing the risk that the substances will be diverted before they can be disposed. This rule is necessary to prescribe a process for controlled substance registrants to amend their controlled substance registrations to authorize them to collect unwanted controlled substance prescription medications. This emergency amendment is necessary for the immediate protection of the public health, safety, and welfare due to the current opioid crisis. The department finds a compelling governmental interest in protecting public health and safety from the opioid crisis, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 17, 2018, becomes effective September 27, 2018, and expires March 25, 2019.

(1) Modification of Registration.

(A) Any registrant may apply to modify his/her registration to authorize the handling of controlled substances in additional schedules by submitting a request in writing to the department. No fee shall be required to be paid for the modification. The application for modification shall be handled in the same manner as an application for registration.

(B) Any registrant may request to modify his or her name or address as shown on the registration provided that such a modification does not constitute a change of ownership or location. The request shall be made in writing[,] and no fee shall be required to be paid for the modification. The request for changes may be submitted electronically using the department's online database system. Requests submitted in paper form shall contain the registrant's signature.

(C) When the registrant's name or address as shown on the registration changes, the registrant shall notify the Department of Health and Senior Services in writing, including the registrant's signature, prior to or within thirty (30) days subsequent to the effective date of the change. No fee shall be required to be paid for the modification.

(D) **Collector of Unwanted Controlled Substances.** A current registrant with the department may request to have their registration modified to authorize the collection of unwanted controlled substances. Requests shall be submitted in writing to the Bureau of Narcotics and Dangerous Drugs, PO Box 570, Jefferson City, Missouri, 65102-0570. Requests shall provide the requesting registrant's name, address, and current Missouri Controlled Substances Registration number. Requests shall identify the method of collection such as either a collection receptacle box or mail-back return system, or both, and shall identify the exact physical address of the receptacle. Collection receptacles located in long-term care facilities shall be maintained by a retail pharmacy. The bureau will respond to the registrant's request in writing. Registrants authorized by the department to collect unwanted controlled substances shall comply with all requirements for record keeping and security in accordance with federal regulations. The privilege of being a collector may be terminated if the registrant's authority to collect is terminated by the United States Drug Enforcement Administration, a judicial order, an act by a state licensing board or agency, or if the collector's registration is restricted as a matter of public discipline by the department. An authorized collector who wishes to cease being a collector shall

notify the bureau in writing of the date that collections will cease.

(2) Termination of Registration.

(A) The registration of any person shall terminate—

1. On the expiration date assigned to the registration at the time the registration was issued;

2. If and when the person dies;

3. If and when the person ceases legal existence;

4. If and when a business changes ownership, except—

A. The registration shall not terminate for thirty (30) days from the effective date of the change if the new owner applies for a registration within the thirty- (30-)/-] day period and the corresponding Drug Enforcement Administration registration remains effective as provided for by the Drug Enforcement Administration;

5. If and when the person discontinues business or changes business location, except—

A. The registration shall not terminate for thirty (30) days from the effective date of the change if the person applies for a new registration or modification within the thirty- (30-)/-] day period; or

6. Upon the written request of the registrant.

AUTHORITY: section 195.195, RSMo [2000] Supp. 2018. Original rule filed April 14, 2000, effective Nov. 30, 2000. Amended: Filed Jan. 31, 2003, effective July 30, 2003. Amended: Filed April 29, 2011, effective Nov. 30, 2011. Emergency amendment filed Sept. 17, 2018, effective Sept. 27, 2018, expires March 25, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 1—Controlled Substances**

EMERGENCY AMENDMENT

19 CSR 30-1.064 Partial Filling of [Schedule II] Controlled Substance Prescriptions. The department is modifying the title of the rule, eliminating section (2), and adding a new section (2).

PURPOSE: This amendment establishes conditions under which the partial filling of prescriptions in Schedules II, III, IV, or V is permissible.

EMERGENCY STATEMENT: Opioid abuse is a public health crisis in Missouri and throughout the country. In 2016, there was a thirty-five percent (35%) increase in opioid overdose deaths over 2015. During 2016, one (1) out of every sixty-six (66) deaths was opiate related. Additionally, the number of infants born with opiate-related natal abstinence syndrome is increasing. Studies have found that a large percentage of people who abuse controlled substances get those substances from family members, homes, and leftover prescriptions. One (1) way to impact the opioid crisis is to allow for the partial filling of controlled substance prescriptions and/or reducing the number of leftover doses from fully-filled prescriptions. Reducing the number of leftover doses will reduce the potential for diversion of controlled substances. This emergency amendment is necessary for the immediate protection of the public health, safety, and welfare due to the current opioid crisis. The department finds a compelling governmental interest in protecting public health and safety from the opioid crisis, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Division of Regulation and Licensure believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 17, 2018, becomes effective

September 27, 2018, and expires March 25, 2019.

[(2) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness, may be filled in partial quantities to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist must contact the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record on the prescription whether the patient is "terminally ill" or an "LTCF patient." A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" shall be deemed to have been filled in violation of Chapter 195, RSMo. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions for patients in an LTCF or patients with a medical diagnosis documenting a terminal illness, shall be valid for a period not to exceed sixty (60) days from the issue date unless sooner terminated by the discontinuance of medication.]

(2) The partial filling of a prescription for controlled substances listed in Schedules II, III, IV, or V is permissible, provided that:

(A) Partial filling may occur at the request of a patient or it may be directed by the prescriber;

(B) Each partial dispensing is recorded in the same manner as a refilling would be;

(C) With each partial dispensing, the pharmacy must document the date and quantity dispensed on the original prescription record or their approved electronic computer applications, provided that the electronic system meets all of the federal requirements for handling of electronic prescriptions for controlled substances, including the ability to retrieve the information pertaining to partially filled controlled substances;

(D) The total quantity dispensed in all partial fillings cannot exceed the total quantity prescribed;

(E) No dispensing occurs after six (6) months after the date on which the original prescription was issued;

(F) A partial dispensing is not considered a "refill" if the patient does not receive the full authorized amount at one (1) time; and

(G) The prescription was written and filled in accordance with all other applicable laws and regulations.

AUTHORITY: sections 195.080 and 195.195, RSMo Supp. [2014] 2018. Original rule filed April 14, 2000, effective Nov. 30, 2000. Amended: Filed Jan. 29, 2015, effective July 30, 2015. Emergency amendment filed Sept. 17, 2018, effective Sept. 27, 2018, expires March 25, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES**

**Division 30—Division of Regulation and Licensure
Chapter 1—Controlled Substances**

EMERGENCY AMENDMENT

19 CSR 30-1.078 Disposing of Unwanted Controlled Substances.

The department is amending sections (1) and (3), and repealing sections (2) and (4), to be replaced with new sections (2) and (4).

PURPOSE: This amendment establishes the process for authorized registrants to collect unwanted controlled substances through collection receptacles or a mail-back program and amends requirements for destruction of controlled substances by registrants.

EMERGENCY STATEMENT: Opioid abuse is a public health crisis in Missouri and throughout the country. In 2016, there was a thirty-five percent (35%) increase in opioid overdose deaths over 2015. During 2016, one (1) out of every sixty-six (66) deaths was opiate related. Additionally, the number of infants born with opiate-related natal abstinence syndrome is increasing. Studies have found that a large percentage of people who abuse controlled substances get those substances from family members, homes, and leftover prescriptions. One (1) way to impact the opioid crisis is to provide methods for safe, efficient disposal of extra or unwanted controlled substances, including opioids, so that they are not diverted. Prior to portions of Senate Bill 826 (2018) taking effect, Missouri's controlled substance law prohibited collection of controlled substances by registrants who had not originally prescribed the substance. This meant that pharmacies and other registrants could not maintain collection receptacles for disposal of unwanted controlled substances by customers and patients. Drug take-back events were allowed, and four (4) such events collected tens of thousands of pounds of drugs during 2016 and 2017. Now that Senate Bill 826 (2018) is in effect, amendments to this regulation are necessary to implement the provisions of the bill so that registrants can begin maintaining collection receptacles as soon as possible. Without such receptacles, people who wish to properly dispose of controlled substances must retain them in their homes until a take-back event is held, increasing the risk that the substances will be diverted before they can be disposed. This emergency amendment is necessary for the immediate protection of the public health, safety, and welfare due to the current opioid crisis. The department finds a compelling governmental interest in protecting public health and safety from the opioid crisis, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 17, 2018, becomes effective September 27, 2018, and expires March 25, 2019.

(1) A registrant in possession of any controlled substance(s) and desiring or required to dispose of such substance(s) shall:

(A) Return the controlled substance(s) to the original supplier;

(B) Transfer the controlled substance(s) to a distributor authorized to accept controlled substance(s) for the purpose of disposal;

(C) Submit a DEA Form 41 to the federal Drug Enforcement Administration (DEA) requesting authorization to dispose of the controlled substance(s) in compliance with federal regulations;

(D) Become an Authorized Collector of Controlled Substance(s). Registrants shall dispose of all unwanted controlled substance(s) and keep records in accordance with federal regulations. Only manufacturers, distributors, reverse distributors, narcotic treatment programs, hospitals, and retail pharmacies that have modified their state and federal controlled substances registrations may possess a collection receptacle for medication disposal or participate in the DEA approved mail-back system;

[(D)](E) Contact the Bureau of Narcotics and Dangerous Drugs (BNDD), Department of Health and Senior Services for information pertaining to subsections (1)(A), (B), [or] (C), or (D) of this rule.

[(2) The return, transfer or disposal of any controlled substance shall be documented in accordance with 19 CSR

30-1.044.]

(2) Destruction of controlled substance(s) in patient care areas.

(A) Controlled substance(s) that have been contaminated by patient contact are to be destroyed on site. An excess volume of a controlled substance which must be discarded from a dosage unit just prior to administration shall also be destroyed on site.

(B) Controlled substance(s) that have not been contaminated by patient contact or are not excess volumes of a dosage unit shall not be destroyed on site unless the registrant has obtained authorization from the United States Drug Enforcement Administration to destroy such drugs and destruction is documented on the DEA Form 41. Unwanted controlled substances that have been expired, discontinued, or are otherwise unwanted shall be disposed of by methods listed previously in section (1) of this rule.

(C) In a hospital patient care area, unwanted controlled substance(s) that have not been contaminated by patient contact shall be returned to the pharmacy for final disposal.

(D) The destruction of controlled substance(s) shall be in such a manner that it renders the medication unrecoverable and beyond reclamation so that it cannot be diverted.

(E) The destruction and documentation of destruction shall be performed and completed by two (2) people. One (1) of the people must be a licensed physician, nurse, pharmacist, intern pharmacist, pharmacy technician, assistant physician, physician assistant, podiatrist, optometrist, dentist, or veterinarian. The second person, the witness, is not required to be a licensed medical professional but must be an employee of the registrant, unless in an Emergency Medical Service (EMS) setting.

(F) The following shall be entered in the controlled substance administration record or a separate controlled substance destruction record when the controlled substance is destroyed in the patient care area: the date and hour of destruction, the drug name and strength, the amount destroyed, the reason for destruction, the patient's name and room number if applicable, and the names or initials of the two (2) persons performing the destruction. The controlled substance administration and destruction records are to be retained for two (2) years and available for inspection by the Department of Health and Senior Services;

(3) In the event the registrant is a hospital, the following procedures are to be used for the destruction of controlled substance(s):

(A) When disposal of controlled substance(s) is in patient care areas—

1. Controlled substances which are contaminated by patient body fluids are to be destroyed by a physician, nurse, or a pharmacist in the presence of another hospital employee;

2. An excess volume of a controlled substance which must be discarded from a dosage unit just prior to use shall be destroyed by a nurse, pharmacist, or physician in the presence of another hospital employee;

3. The remaining contents of opened glass ampules of controlled substance(s) shall be destroyed by a nurse, pharmacist, or physician in the presence of another hospital employee;

4. Single units of single dose packages of controlled substance(s) which are contaminated other than by patient body fluids and are not an infectious hazard, [or] have been removed from their original or security packaging, [or] are partially used, or are otherwise rendered unsuitable for patient use shall be destroyed by a nurse, pharmacist, or physician in the presence of another hospital employee or returned to the pharmacy for destruction;

5. The following shall be entered in the controlled substance administration record or a separate controlled substance destruction record when the controlled substance(s) is destroyed in the patient care area: the date and hour of destruction, the drug name and strength, the amount destroyed, the reason for destruction, and the patient's name and room number. The nurse, pharmacist, or physician and the witnessing hospital employee shall sign the entry. The drug shall be destroyed so that it is beyond reclamation. The con-

trolled substance administration or destruction records are to be retained for two (2) years and available for inspection by Department of Health investigators;

6. All other controlled substances which are not patient contaminated but which are to be disposed of shall be returned to the pharmacy for disposal;

(B) When disposal of controlled substance(s) is in the pharmacy—

1. Single units of controlled substance(s) which are contaminated other than by patient body fluids and are not an infectious hazard, [or] have been removed from their original or security packaging, [or] are partially used, or are otherwise rendered unsuitable for patient use shall be destroyed by a pharmacist in the presence of another hospital employee or held for later destruction;

2. All other controlled substances which are not patient contaminated but are to be disposed of shall be placed in a suitable container for storage and disposed of as described in section (1) of this rule.

[(4) If the registrant administers controlled substances and is not a hospital, the following procedures are to be used for the destruction of controlled substances:

(A) Controlled substances which are contaminated by patient body fluids are to be destroyed, in the presence of another employee, by the registrant or designee authorized to administer;

(B) An excess volume of a controlled substance which must be discarded from a dosage unit just prior to use is to be destroyed, in the presence of another employee, by the registrant or designee authorized to administer;

(C) The remaining contents of opened glass ampules of controlled substances which are not patient contaminated are to be destroyed, in the presence of another employee, by the registrant or designee authorized to administer;

(D) When the controlled substance is destroyed by the registrant or designee authorized to administer, the following shall be entered in the controlled substances administration records or a separate controlled substances destruction record: the date and amount destroyed, the reason for destruction and the registrant's name and address. The registrant or designee doing the destruction and the witnessing employee shall sign the entry. The drug shall be destroyed so that it is beyond reclamation. The controlled substances administration or destruction records are to be retained for two years and available for inspection by Department of Health investigators;

(E) All other controlled substances which are not patient-contaminated but are to be disposed of shall be placed in a suitable container for storage and disposed of as described in section (1) of this rule.]

(4) Collection Receptacle Boxes for Patients' Unwanted Controlled Substance Prescriptions.

(A) Hospitals, pharmacies, narcotic treatment programs, and long-term care facilities are authorized to install collection receptacle boxes or participate in a DEA approved mail-back method to collect unwanted controlled substance prescription medications from patients. Registrants must comply with federal regulations regarding security and record keeping. Collection receptacles shall be used only for patients' unwanted medications and not for the expired or unwanted stock of a practitioner or facility.

(B) All facilities and locations with collection receptacle boxes and mail-back systems shall comply with federal regulations.

1. Patients' medications from long-term care facilities and narcotic treatment programs shall be placed in a receptacle within three (3) days of the expiration date on the medication; upon a discontinuation of use authorized by a prescriber; or upon the death of a patient.

2. Collection receptacle boxes shall be installed, maintained, and managed by a retail pharmacy or hospital pharmacy.

(C) Record keeping for collection receptacle boxes. Registrants or their employees shall not inventory the contents of the collection receptacle box. The collection receptacle box is to be opened by two (2) people; one (1) shall be an employee of the pharmacy and the other may be an employee of the facility receiving pharmaceutical services. All registrants with collection receptacle boxes shall maintain a perpetual log that documents entry into the collection receptacle box, changing of liners, and transfers of drugs from the registrant to a reverse distributor. These logs shall be maintained on file at the registered location for inspection and shall document the date of entries into the collection receptacle box, the names of the employees entering the collection receptacle box, the reason for entering the receptacle, the serial number of a liner being removed, and the serial number of a new liner being installed. This log shall also be used to document the transfer of a liner from the registrant to a reverse distributor by documenting the date of transfer, serial number of the liner, names of the persons involved in the transfer, and the DEA number of the reverse distributor. The log shall also document when the pharmacy changes out the interior liner bags and document the serial number of the bag being removed and of the new bag being installed.

AUTHORITY: sections 195.050 and 195.195, RSMo [1994] Supp. 2018. Original rule filed April 14, 2000, effective Nov. 30, 2000. Emergency amendment filed Sept. 17, 2018, effective Sept. 27, 2018, expires March 25, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 18—Retirement Policy**

PROPOSED RESCISSION

1 CSR 10-18.010 Retirement Policy. The state of Missouri adopted a retirement incentive providing health insurance at the active rate for five (5) years for eligible retirees that met specific criteria. State agencies were allowed to fill only twenty-five percent (25%) of the positions vacated because of the retirement incentive between February 1, 2003 and September 1, 2003. Exceptions to the twenty-five percent (25%) were made for critical or seasonal positions, or positions which were entirely federally funded. This rule established the definitions of those exceptions.

PURPOSE: This rule is being rescinded because the circumstances necessitating the rule have passed and are no longer applicable.

AUTHORITY: section 104.404, RSMo Supp. 2003. Emergency rule filed Aug. 27, 2003, effective Sept. 12, 2003, expired March 9, 2004. Original rule filed July 21, 2003, effective Feb. 29, 2004. Rescinded: Filed Sept. 5, 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 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
[Chapter 5—General Program Procedures]
Chapter 7—Core Rules for Psychiatric and
Substance Use Disorder Treatment Programs**

PROPOSED AMENDMENT

9 CSR 10-[5.240]7.035 Behavioral Health Healthcare Home. The department is moving this rule from Division 10, Chapter 5, General Program Procedures to Division 10, Chapter 7, Core Rules for Psychiatric and Substance Use Disorder Treatment Programs. The department is also amending the section title, purpose, removing section (1), and renumbering and amending sections (1) through (4).

PURPOSE: This amendment updates terminology and adds a provision to ensure enrollment in a Behavioral Health Healthcare Home is based on individual choice.

PURPOSE: This rule [prescribes] establishes the requirements for designation as a Behavioral Health Healthcare Home [as] by the department. A Healthcare Home is an alternative approach to the delivery of health[-]care services that [promises] have a reasonable likelihood of resulting in a better experience and [better results than] improved outcomes for individuals served as compared to traditional healthcare. [This rule also establishes the payment methodology for those Community Mental Health Centers (CMHCs) participating as a Health Home.]

[(1) Definitions.

(A) Community Mental Health Centers (CMHC)—An agency and its approved designee(s) authorized by the Division of Comprehensive Psychiatric Services (CPS) as an entry and exit point into the state mental health service delivery system for a geographic service area defined by the division.

(B) Department—Missouri Department of Mental Health (DMH).

(C) Electronic Medical Record (EMR) (also referred to as Electronic Health Records (EHR))—An electronic version of a patient's medical history that is maintained by the provider over time and may include all of the key administrative clinical data relevant to that person's care under a particular provider, including demographics, progress notes, problems,

medications, vital signs, past medical history, immunizations, laboratory data, and radiology reports. The EMR automates access to information and has the potential to streamline the clinician's workflow. The EMR also has the ability to support other care-related activities directly or indirectly through various interfaces, including evidence-based decision support, quality management, and outcomes reporting.

(D) *Health Home (also referred to as Health Care Home)*—A site that provides comprehensive behavioral health care coordinated with comprehensive primary physical care to Medicaid patients with behavioral health and/or chronic physical health conditions, using a partnership or team approach between the Health Home practice's/site's health-care staff and patients in order to achieve improved primary care and to avoid hospitalization or emergency room use.

(E) *Learning Collaborative*—Group training sessions that CMHCs must attend if they are chosen to participate in the Missouri Medicaid Community Mental Health Center Health Home program.

(F) *Missouri Medicaid Audit and Compliance Unit (MMAC)*—The unit within the Department of Social Services (DSS) which directly manages and administers Medicaid provider review, program integrity, audit and compliance initiatives, and provider contracts of the Medicaid program.

(G) *MO HealthNet Division (MHD)*—The Missouri Medicaid agency.

(H) *Needy individuals*—Individuals receiving medical assistance from Medicaid or the Children's Health Insurance Program (CHIP), or are furnished uncompensated care by the provider, or furnished services at either no cost or reduced cost based on a sliding scale.]

[(2)](1) **Behavioral Health Healthcare Home Qualifications.**

(A) Initial Provider Qualifications. In order to be recognized as a **Behavioral Health Healthcare Home**, a [CMHC] provider must, at a minimum, meet the following criteria:

1. Have a substantial percentage of [its patients] individuals served enrolled in Medicaid, with special consideration given to those with a considerable volume of needy individuals. **Percentage requirements will be determined by the department;**

2. Have strong, engaged leadership [personally] committed to and capable of leading the [practice] organization through the transformation process to **Healthcare Home service delivery practices** and sustaining [transformed practice processes] those practices as demonstrated through the application process and agreement to participate in learning activities; and that agency leadership have presented the state-approved "Paving the Way for Health Homes" PowerPoint introduction to Missouri's Health Home Initiative to all agency staff], including in-person sessions and regularly scheduled phone calls as required by the department;

3. Meet the [state's] department's minimum access requirements. Prior to implementation of **Behavioral Health Healthcare Home** service coverage, provide assurance to the department of enhanced [patient] access to the [health team] Care Team by individuals served, including the development of alternatives to face-to-face visits, such as telephone or email, twenty-four (24) hours per day, seven (7) days per week;

4. Actively use [MHD's comprehensive EHR to conduct care coordination and prescription monitoring for Medicaid participants;] the department's identified health information technology tool to conduct care coordination, input metabolic syndrome screening results, track and measure care of individuals, automate care reminders, produce exception reports for care planning, and monitor prescriptions;

5. Utilize an interoperable patient registry to input annual metabolic screening results, track and measure care of individuals, automate care reminders, and produce excep-

tion reports for care planning;]

[6.]5. Routinely use a behavioral pharmacy management system to determine problematic prescribing patterns;

[7.]6. Conduct wellness interventions as indicated based on [client's] the individual's level of risk;

[8.]7. Complete status reports to document [client's] the individual's housing, legal, employment [status], education, and custody[, etc.] status;

[9.]8. Agree to convene regular, ongoing, and documented internal Healthcare Home team meetings to plan and implement goals and objectives of ongoing practice transformation;

[10.]9. Agree to participate in [the Centers for Medicare and Medicaid Services (CMS) and state-required] department-approved evaluation activities;

[11.]10. Agree to develop required reports describing [CMHC] Healthcare Home activities, efforts, and progress in implementing Healthcare Home services;

[12.]11. Maintain compliance with all of the terms and conditions as a [CMHC] Behavioral Health Healthcare Home provider or face termination as a provider of [CMHC] Healthcare Home services; and

[13.]12. Present a proposed **Behavioral Health Healthcare Home service** delivery model [that] the [state] department determines [to] will have a reasonable likelihood of being cost effective. Cost effectiveness will be determined based on the size of the proposed Behavioral Health Healthcare Home, Medicaid caseload, percentage of caseload with eligible chronic conditions [of patients], and other factors to be determined by the [state] department.

(B) Ongoing Provider Qualifications. Each [CMHC] provider must also—

1. [Within three (3) months of Health Home service implementation, have a contract or Memorandum of Understanding (MOU) under development] **Coordinate care and build relationships** with regional hospital(s) or system(s) to [ensure] develop a [formalized] structure for transitional care planning, [to] include/ing communication of inpatient admissions of Healthcare Home participants, [as well as] and maintain a mutual awareness and collaboration to identify individuals seeking emergency department [(ED)] services [that] who might benefit from connection with a Healthcare Home [site], and [in addition motivate] encourage hospital staff to notify the area [CMHC primary care nurse manager or] **Behavioral Health Healthcare Home** staff of such opportunities;

2. Develop quality improvement plans to address gaps and opportunities for improvement identified during and after the application process;

3. Demonstrate continuing development of fundamental Healthcare Home functionality [at six (6) months and twelve (12) months] through an assessment process to be determined by [DMH] the department;

4. Demonstrate **significant** improvement on clinical indicators specified by and reported to the [state] department; and]

5. Meet accreditation standards approved by the [state as such standards are developed.] department; and

6. Provide Behavioral Health Healthcare Home services that demonstrate overall cost effectiveness.

[(3)](2) **Scope of Services.** This section describes the activities [CMHCs] behavioral health providers will be required to engage in, and the responsibilities they will fulfill, if recognized as a Behavioral Health Healthcare Home [provider].

(A) Healthcare Home Services. The Healthcare Home Team shall assure [that] the following health services are received, as necessary, by all [members of] individuals served in the Behavioral Health Healthcare Home:

1. Comprehensive Care Management. Comprehensive care management includes the following services:

A. Identification of high-risk individuals and use of [client]

information obtained during the enrollment process to determine level of participation in care management services;

B. Assessment of preliminary service needs;

C. Development of treatment plans[,] including [client] individual goals, preferences, and optimal clinical outcomes;

D. Assignment of [Health] Care Team roles and responsibilities;

E. Development of treatment guidelines that establish clinical pathways for [health] Care [t/Teams] to follow across risk levels or health conditions;

F. Monitor[ing of] individual and population health status and service use to determine adherence to, or variance from, treatment guidelines; and

G. Development and dissemination of reports that indicate progress toward meeting outcomes for [client] individual satisfaction, health status, service delivery, and costs.

2. Care coordination. Care coordination consists of the implementation of the individualized treatment plan [(with active client involvement)] through appropriate linkages, referrals, coordination, and follow-up to needed services and supports, including referral and linkage to long-term services and supports. Specific care coordination activities include, but are not limited to:

A. [a]Appointment scheduling[.];

B. [c]Conducting referrals and follow up monitoring[.];

C. [p]Participating in hospital discharge processes[.]; and

D. [c]Communicating with other providers and [clients] the individual/family members. [Health Homes must conduct care coordination activities across the Health Team. The primary responsibility of the Nurse Care Manager is to ensure implementation of the treatment plan for achievement of clinical outcomes consistent with the needs and preferences of the client.]

3. Health promotion services. Services shall minimally consist of [providing] health education specific to an individual's chronic conditions, development of self-management plans with the individual, education regarding the importance of immunizations and screenings, child physical and emotional development, providing support for improving social networks, and [providing] healthy [promoting] lifestyle interventions, including, but not limited to:

A. [s]Substance use prevention[.];

B. [s]Smoking prevention and cessation[.];

C. [n]Nutritional counseling[.];

D. [o]Obesity reduction and prevention[.]; and

E. [i]Increasing physical activity.

Health promotion services also assist [clients to participate] individuals in the implementation of their treatment plan and place a strong emphasis on person-centered empowerment to understand and self-manage chronic health conditions.

4. Comprehensive transitional care. Members of the [Health] Care Team must provide care coordination services designed to streamline plans of care, reduce hospital admissions, ease the transition to long-term services and supports, and interrupt patterns of frequent hospital emergency department use. Members of the [Health] Care Team collaborate with physicians, nurses, social workers, discharge planners, pharmacists, and others to continue implementation of the treatment plan with a specific focus on increasing [clients'] individuals' and family members' ability to manage care and live safely in the community and shift the use of reactive care and treatment to proactive health promotion and self-management.

5. Individual and family support services. Services include, but are not limited to: advocating for individuals and families; assisting with, obtaining, and adhering to medications and other prescribed treatments. [In addition, Health] Care Team members are responsible for identifying resources for individuals to support them in attaining their highest level of health and functioning in their families and in the community, including transportation to medically-necessary services. A primary focus will be increasing health literacy, ability to self-manage care, and facilitate participation in the ongoing revision of their care/treatment plan. For individuals with develop-

mental disabilities (DD), the [Health] Care Team will refer to, and coordinate with, the approved DD case management entity for services more directly related to habilitation or a particular healthcare condition.

6. Referral to community and social support including long-term services and supports. This [] involves providing assistance for [clients] individuals to obtain and maintain eligibility for health-care, disability benefits, housing, personal need, and legal services, as examples. For individuals with DD, the [Health] Care Team will refer to, and coordinate with, the approved DD case management entity for this service.

(B) Healthcare Home Staffing. Behavioral Health Healthcare Home providers will augment their current [Community Psychiatric Rehabilitation (CPR)] treatment teams by adding a Health Home Director, [Physician Leadership] Primary Care Physician Consultant, and Nurse Care Manager(s) to provide consultation as part of the Care Team and assist in delivering Healthcare Home services. [Clerical support staff] Care Coordinators will also be funded to assist with Healthcare Home supporting functions.

(C) Learning Activities. [CMHCs] Behavioral health providers will be supported in transforming service delivery by participating in statewide learning activities. [Given CMHCs' varying levels of experience with practice transformation approaches, the state will assess providers to determine learning needs. CMHCs] Providers will [therefore] participate in a variety of learning supports, up to and including learning collaboratives[,] specifically designed to [instruct CMHCs] demonstrate how to operate as a Behavioral Health Healthcare Home[s] and provide care using a whole person approach that integrates behavioral health, primary care, and other needed services and supports. Learning activities will be supplemented with periodic calls to reinforce the learning sessions, practice coaching, and monthly practice reporting (data and narrative) and feedback.

1. Learning activities will support Behavioral Health Healthcare Home providers [of Health Home services] in addressing the following [components]:

A. Provid[e/ing] quality-driven, cost-effective, culturally-appropriate, and person- and[-] family-centered [H/healthcare] [H/home] services;

B. Coordinat[e/ing] and provid[e/ing] access to high-quality healthcare services informed by evidence-based clinical practice guidelines;

C. Coordinat[e/ing] and provid[e/ing] access to preventive and health promotion services, including prevention of mental illness and substance use disorders;

D. Coordinat[e/ing] and provid[e/ing] access to mental health and substance use services;

E. Coordinat[e/ing] and provid[e/ing] access to comprehensive care management, care coordination, and transitional care across settings. Transitional care includes appropriate follow-up from inpatient to other settings, such as participation in discharge planning and facilitating transfer from a pediatric to an adult system of healthcare;

F. Coordinat[e/ing] and provid[e/ing] access to chronic disease management, including self-management support to individuals and their families;

G. Coordinat[e/ing] and provid[e/ing] access to individual and family supports, including referral to community, social support, and recovery services;

H. Coordinat[e/ing] and provid[e/ing] access to long-term care supports and services;

I. Developing a person-centered care plan for each individual that coordinates and integrates all of his or her clinical and non-clinical healthcare related needs and services;

J. Demonstrat[e/ing] a capacity to use health information technology to link services, facilitate communication among team members and between the [Health] Care Team and individual and family caregivers, and provide feedback to practices, as feasible and appropriate; and

K. Establishing a continuous quality improvement program and collecting and reporting on data that permits an evaluation of increased coordination of care and chronic disease management on individual[-] level clinical outcomes, experience of care outcomes, and quality of care outcomes at the population level.

(D) Patient Registry. **Behavioral Health Healthcare Homes** shall utilize the *[DMH/Department of Social Services (DSS) provided EHR]* patient registry approved by the department. A patient registry is a system for tracking information *[that DMH/DSS] the department* deems critical to the management of the health of the **population being served through** a Healthcare Home/*'s patient population]*, including dates of delivered and needed services, laboratory values needed to track chronic conditions, and other measures of health status. The registry shall be used for—

1. *[Patient t]*Tracking;
2. *[Patient r]*Risk stratification;
3. Analysis of *[patient]* population health status and individual *[patient]* needs; and
4. Reporting as specified by *[DMH] the department*.

(E) Data Reporting. *[CMHCs] Behavioral Health Healthcare Homes* shall *[submit to DMH the following reports, as further specified by DMH, within the time frames specified below] submit the following reports to the department as specified:*

1. Monthly updates *[CMHC report that describes the CMHC's efforts and progress to implement Health Home; including] identifying the [CMHC leadership and] Behavioral Health Healthcare Home's staffing [and providing updates on Health Home enrollment status] patterns, enrollment status, hospital follow-ups, and notifications provided to primary healthcare providers; and*
2. Other reports~~,~~ as specified by *[DMH/DSS] the department*.

(F) Demonstrated Evidence of Healthcare Home Transformation. *[CMHCs] Providers* are required to demonstrate evidence of **transformation to the Behavioral Health Healthcare Home [transformation] model** on an ongoing basis using measures and standards established by *[DSS and DMH,] the department* and communicated to the *[CMHCs] providers*. *[Evidence of Health Home transformation includes:] Transformation to the Behavioral Health Healthcare Home service delivery model is exhibited when a provider—*

1. Demonstrates development of fundamental *[h/Healthcare h/Home]* functionality at six (6) months and twelve (12) months based on an assessment process *[to be] determined by [DMH; and] the department*. **Providers must demonstrate continued improvement and functionality for as long as they maintain their Behavioral Health Healthcare Home designation; and**
2. Demonstrates improvement on clinical indicators specified by and reported to *[DMH] the department*.

(G) Participation in Evaluation. *[CMHCs] Providers* shall participate in *[an] ongoing* evaluation. Participation may entail responding to surveys and requests for interviews with *[CMHC] Behavioral Health Healthcare Home* staff and *[clients] individuals served*. *[CMHCs] Providers* shall provide all requested information to the evaluator in a timely fashion.

(H) Notification of Staffing Changes. *[Practices] Providers* are required to notify *[DMH] the department* within five (5) working days of staff changes in the **Behavioral Health Healthcare Home** Director, *[Physician Leadership] Primary Care Physician Consultant, Nurse Care Manager(s), and [Clerical Support Staff] Care Coordinators*.

(I) *[CMHCs] Providers* shall work cooperatively with *[DMH] the department* to support *[DMH] approved* training, technology, and administrative services required for **ongoing implementation and support** of the *[Health Care Home Program] Behavioral Health Healthcare Homes*.

[[4]](3) Patient Eligibility and Enrollment. This section describes eligibility and enrollment requirements for Behavioral Health

Healthcare Homes.

(A) *[Medicaid beneficiaries eligible for Health Home services from recognized CMHC Health Home service providers must meet one (1) of the following criteria:] Individuals receiving Medicaid benefits must meet one (1) of the following criteria to be eligible for services from a designated Behavioral Health Healthcare Home:*

1. **Be [D/]diagnosed** with a serious and persistent mental health condition (adults with *[Seriously Mentally Ill (SMI)] Serious Mental Illness (SMI)* and children with *[Serious] Severe Emotional Disturbance (SED)*); or
2. **Be [D/]diagnosed** with a mental health condition and substance use disorder; or
3. **Be [D/]diagnosed** with a mental health condition and/or substance use disorder, and one (1) other chronic condition **including** *[[diabetes, chronic obstructive pulmonary disease (COPD), asthma, cardiovascular disease, overweight (body mass index (BMI) > 25), tobacco use, and developmental disability]]*.

[[B] Individuals eligible for Health Home services and identified by the state as being an existing service user of a Health Home will be auto-assigned to eligible providers based on qualifying conditions. Individuals will be attributed to the CMHC using a standard patient attribution algorithm adopted by DMH/DSS.

(C) *After being assigned to a Health Home, participants will be granted the option to change their Health Home if desired. A participant assigned to a Health Home will be notified by DMH of all available Health Homes sites throughout the state. The notice will—*

1. *Describe the participant's choice in selecting a new Health Home;*
2. *Provide a brief description of Health Home services; and*
3. *Describe the process for the participant to decline receiving Health Home services from the assigned Health Home provider.*

(D) *Potentially eligible individuals receiving services in the hospital emergency department or as an inpatient will be notified about eligible Health Homes and referred based on their choice of provider. Eligibility for Health Home services will be identifiable through the state's comprehensive Medicaid electronic health record.*

(E) *Health Home providers to which patients have been auto-assigned will receive communication from the state regarding a patient's enrollment in Health Home services. The Health Home will notify other treatment providers about the goals and types of Health Home services as well as encourage participation in care coordination efforts.]*

(B) **Providers may determine enrollment in the Behavioral Health Healthcare Home for individuals being served within their organization who meet eligibility requirements in accordance with the following:**

1. **Enrollment is based on the choice of individuals served; and**
2. **Individuals may choose not to enroll in the Behavioral Health Healthcare Home or may choose another provider's Behavioral Health Healthcare Home if one exists in their area.**

(C) **Behavioral Health Healthcare Homes must follow Healthcare Home enrollment procedures, including submittal of the required Healthcare Home enrollment form(s).**

[[5]](4) Healthcare Home Payment Components. This section describes the payment process for Behavioral Health Healthcare Homes.

(A) General.

1. **All payments to a Behavioral Health Healthcare Home [payments to a practice site] are contingent on the site meeting the Behavioral Health Healthcare Home requirements set forth in this rule. Failure to meet these requirements is grounds for revocation of a**

site's [Health Home status] designation as a Behavioral Health Healthcare Home and for termination of payments specified within this rule.

2. [Health Home r]Reimbursement for Healthcare Home services will be in addition to a provider's existing reimbursement for services and procedures and will not change existing reimbursement for [a provider's non-Health Home] services and procedures that are not part of the Behavioral Health Healthcare Home.

3. [DMH/DSS] The department reserves the right to make changes to the payment methodology [after consultation with recognized Health Homes and receipt of required federal approvals].

(B) Types of Payments.

1. Clinical Care Management Per Member Per Month (PMPM). PMPM reimburses for the cost of staff primarily responsible for delivery of Behavioral Health Healthcare Home services not covered by other reimbursement and whose duties are not otherwise reimbursable [otherwise] by Medicaid.

AUTHORITY: section 630.050, RSMo [Supp. 2011] 2016. Emergency rule filed Dec. 20, 2011, effective Jan. 1, 2012, expired June 28, 2012. Original rule filed Oct. 17, 2011, effective June 29, 2012. Amended: Filed Sept. 14, 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 by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express, or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. 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]35-73.010 Definitions. The division is moving the rule's division location and amending sections (12), (13), (15), (18), and (19).

PURPOSE: This amendment changes the division, chapter location and number, and updates the definition of "foster home."

(12) "Director" means the director of the [Division of Family Services] Children's Division.

(13) "Division" means the [Division of Family Services] Children's Division of the Department of Social Services.

(15) "Family Assessment" means a formal evaluation of the capacity and readiness of foster parent or adoptive applicants to receive a child, [that] which includes a written report and recommendation.

(18) "Foster Home" means a private residence of one (1) or more family members providing twenty-four (24) hour care to one (1) or more, but less than [seven (7)] six (6) children who are unattended

by parent or guardian and who are unrelated to either foster parent by blood, marriage, or adoption.

(19) "Foster parent" means a person of age twenty-one (21) or older who is licensed to provide twenty-four (24)[-] hour care to one (1) or more, but less [seven (7)] six (6), children who are unattended by parent or guardian, and who is unrelated to the child(ren) by blood, marriage, or adoption.

AUTHORITY: sections [210.481–210.536, 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. Amended: Filed Sept. 7, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the 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]35-73.035 Staff Qualifications and Requirements. The division is moving the rule's division location and amending paragraph (2)(C)3. and subsection (4)(B).

PURPOSE: This amendment changes the division, chapter location and number, and updates references to other regulations.

(2) Administrative Personnel.

(C) The administrator shall be at least twenty-five (25) years of age and shall have one (1) of the following:

1. A master's degree in social work, counseling, social work administration, or a related human service degree[,] from an accredited school and three (3) years' experience in the management or supervision of child placing or residential care personnel and programs; or

2. A bachelor's degree in social work or a human service area of study from an accredited school and five (5) years' experience in the management or supervision of child placing or residential care personnel and programs; or

3. If the administrator is responsible only for administrative functions such as personnel and fiscal matters[,] and is not responsible for direct supervision of the programs and services of the agency, the agency may then employ an administrator who has a bachelor's degree from an accredited school and two (2) years' experience in child placing or residential care services. However, in this case, the agency shall employ a person, responsible for the direct supervision of the agency's services, who meets the qualifications set forth in 13 CSR [40]35-73.035(2)(C)1. or 2.

(4) Professional Personnel.

(B) Professional staff who perform social work tasks, counseling

with children and their families, therapeutic services, or planning of services for children and their families, shall have a master's degree in social work, psychology, counseling or a closely related clinical field from an accredited college. Professional staff may have a bachelor's degree in social work, psychology, counseling, or a related area of study from an accredited school if s/he is under the direct supervision of a qualified supervisor of placement services (13 CSR [40]35-73.035(3)).

AUTHORITY: sections [210.481–210.536, RSMo (1994) and (Cum. Supp. 1996)] 207.020 and 660.017, RSMo 2016. Original rule filed Feb. 6, 1997, effective July 30, 1997. Amended: Filed Sept. 7, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the 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]35-73.040 Operational Requirements. The division is moving the rule's division location and amending paragraph (3)(H)1.

PURPOSE: This amendment changes the division, chapter location and number, and updates references to other regulations.

(3) Records.

(H) The agency shall maintain a permanent adoption record of the child, which shall contain the following:

1. The child assessment summary as defined in 13 CSR [40]35-73.080(3)(A) and supporting documentation;
2. Summaries of post placement supervision and recommendations to the court;
3. Legal documents required for adoption; and
4. Closing summary.

AUTHORITY: sections [210.481–210.536, 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. Amended: Filed Sept. 7, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the 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]35-73.050 Protection and Care of the Child. The division is moving the rule's division location and amending paragraph (1)(H)2.

PURPOSE: This amendment changes the division, chapter location and number, and updates references to other regulations.

(1) An agency shall make an oral report within twenty-four (24) hours to the division followed by a written report within five (5) working days after the occurrence of an unusual incident, such as the death or serious injury of a child, alleged child abuse or neglect, or both, a fire which required the services of the fire department, or any time the agency has been served with any adverse legal action.

(H) Educational Program. The administrator shall be responsible for ensuring compliance with Missouri statutes pertaining to the child(ren)'s education.

1. An agency shall not admit a child unless an educational program appropriate to the child's need can be obtained.

2. The educational progress of a child shall be continually evaluated and the progress shall be included in the child's three (3) month service plan review according to 13 CSR [40]35-73.075(2)(A).

3. Children excluded from school shall be provided education, training, or work experience consistent with their needs and abilities.

4. An agency shall maintain contact and cooperation with a child's school systems to provide a coordinated approach to meeting the educational needs of each child.

5. An agency shall provide appropriate space, adequate lighting, supervision for quiet study after school hours and access to reference materials and school supplies.

6. Children shall be permitted and encouraged to participate in extracurricular activities such as sports, art and music, to the extent of their interests, abilities, and talents.

AUTHORITY: sections [210.481–210.536, 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. Amended: Filed Sept. 7, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the 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]35-73.060 Recommendation for Foster Homes Licensing. The division is moving the rule’s location and amending paragraphs (1)(A)2. and (7)(B)6.

PURPOSE: This amendment changes the division, chapter location and number, and updates references to other regulations.

(1) Initial Procedure.

(A) Prior to being licensed to recommend foster homes for license an agency shall:—

1. Comply with rules as set forth by the division and demonstrate intent to comply with those rules where compliance can only be demonstrated after the agency has initiated operations;

2. Have a written statement of requirements for foster parents(s). These requirements shall be in compliance with foster home rules, 13 CSR [40]35-60.010 through 13 CSR [40]35-60.060 as set forth by the division; and

3. Have written procedures for processing foster home inquiries and applications.

(7) Renewal of Foster Home License.

(B) Updated foster family assessments should be completed biennially. An update should also be completed if there is a significant change in the family situation (*for example*) i.e., job change, address change). An assessment shall include at a minimum:

1. One (1) or more interviews with all members of the family;

2. Medical reports on all household members;

3. **Child abuse/neglect reports** (CA/N *reports*) CRU) on all adults completed within the last thirty (30) days;

4. Arrest record check completed within the last thirty (30) days;

5. Evaluation of any previous placements; and

6. Continued compliance with the foster home rules, 13 CSR [40]35-60.010 through 13 CSR [40]35-60.060, and rules as set forth by the division.

AUTHORITY: sections [210.481–210.536, 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. Amended: Filed Sept. 7, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the 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]35-73.070 Placement of Children in Foster Family Homes. The division is moving the rule’s division location and amending paragraph (1)(A)1.

PURPOSE: This amendment changes the division, chapter location and number, and updates references to other regulations.

(1) Initial Procedure.

(A) Prior to being licensed to receive children for placement in foster care, an agency shall—

1. Comply with rules 13 CSR [40]35-73.010 to 13 CSR [40]35-73.030 as set forth by the division or demonstrate intent to comply with those rules where compliance can only be demonstrated after the agency has initiated operations; and

2. Have a current written program statement which includes the types of foster care provided, the types of services provided to the children, their families, and their foster families, and which shall be available to agency foster parent(s), parent(s), and referring agencies.

AUTHORITY: sections [210.481–210.536, RSMo 1994 and 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. Amended: Filed Sept. 7, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the 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]35-73.075 Foster Care Services. The division is moving the rule’s division location and amending subsection (3)(D).

PURPOSE: This amendment changes the division, chapter location and number, and updates references to other regulations.

(3) Education.

(D) The educational progress of a child shall be continually evaluated, and such progress shall be included in the child’s three (3) months’ service plan review according to section 13 CSR [40]35-73.075(2)(A) of these rules.

AUTHORITY: sections [210.481–210.536, RSMo 1994 and Supp. 1996] 207.020 and 660.017, RSMo 2016. Original rule filed Feb. 6, 1997, effective July 30, 1997. Amended: Filed Sept. 7, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the 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]35-73.080 Adoption Services. The division is moving the rule’s division location and amending section (8).

PURPOSE: This amendment changes the division, chapter location and number, and updates references to other regulations.

(8) International Placements.

(A) Families being considered for the placement of a child from a foreign country shall meet all criteria for families adopting a child born in Missouri as specified in 13 CSR [40]35-73.080(4).

(E) In the event that the adoptive placement ends in a disruption, the same procedure as stated in 13 CSR [40]35-73.080(7) shall be followed.

1. If the disruption occurs prior to the finalization of the adoption, the placing agency shall be responsible for the care and replacement of the child, as discussed in 13 CSR [40]35-73.080(7).

2. If the child placing agency is an agency located in the state other than Missouri, applicable provisions of the ICPC shall be followed.

3. If the child placing agency is a Missouri agency and the child is placed in a state other than Missouri and the adoption disrupts, applicable provisions of the ICPC shall be followed.

(G) Post-placement services.

1. Post-placement services shall be provided in compliance with provisions of rule 13 CSR [40]35-73.080(6).

2. Attention shall be given to the child’s acceptance within the extended family and the community at large.

3. Discussion shall focus on any differences in appearance of the child from the family and how those differences are being addressed and resolved.

4. Health concerns relative to the child’s country of origin shall be noted and followed by a physician as needed and shall be discussed by the worker and the family.

5. Post-placement reports shall be completed and forwarded to the country of origin as required by that country.

6. [A child placing] The agency shall offer information to the family regarding recognition of foreign decree, transfer of custody, and adoption as needed.

7. Certified copies of the final decree of the adoption shall be kept in the case record and forwarded to the country of origin as needed. A translation of said decree shall be retained if applicable.

8. Families shall be encouraged to complete naturalization proceedings on their adopted child.

AUTHORITY: section[s] 210.481–210.536, *RSMo 1994 and 453.070.3 and 453.026.3, RSMo Supp. 1997* 207.020, *RSMo 2016. Original rule filed Sept. 18, 1956, effective Sept. 28, 1956. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 7, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the 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 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 10—Office of the Director
Chapter 10—Vital Records

PROPOSED AMENDMENT

19 CSR 10-10.130 Missouri Adoptee Rights. The Department of Health and Senior Services is amending sections (1), (2), (3), (5), (7), (8), and (10), adding new sections (4), (6), (9), and (11), deleting previous section (5), and renumbering as necessary.

PURPOSE: This rule is being amended to provide the process for the birth parent to receive a copy of the adoptee original birth certificate, the process for an adoptee to state his or her preference regarding whether and how the birth parent can contact him or her, and provide the process for lineal descendants of a deceased adoptee to receive a copy of the adoptee’s original birth certificate.

PURPOSE: This rule provides the process for an adoptee, an adoptee’s attorney, and the birth parents of an adoptee to receive a copy of [his or her] the adoptee’s original birth certificate, the process for a birth parent and the adoptee to state his or her contact preference[, and] regarding whether and how the adoptee/birth parent can contact him or her, the process for completion of a medical history form by a birth parent, and the process for lineal descendants of a deceased adoptee to receive a copy of the adoptee’s original birth certificate.

(1) For purposes of this rule only, unless the context clearly indicates otherwise, the following terms mean:

(B) “Adoptee Contact Preference Form,” a form used by an adoptee to indicate his or her preference about contact with the birth parent(s);

[(B)](C) “Applicant,” the person completing application for a form or certificate as specified in this rule and may be the adoptee [or the], adoptee’s attorney, birth parent, or lineal descendant of a deceased adoptee;

[(C)](D) “Attorney,” a currently-licensed member of the Missouri Bar or bar of another state of the United States;

[(D)](E) “Birth parent,” the parent(s) identified on the adoptee’s original birth certificate;

[(E)](F) “Birth Parent Contact Preference Form,” a form used by a birth parent to indicate his or her preference about contact with the adoptee;

[(F)](G) “Birth Parent Medical History Form,” a form used by a birth parent to provide his or her medical history information to the adoptee;

[(G)](H) “Department,” the Missouri Department of Health and Senior Services;

[(H)](I) “Identifying information,” the name, date of birth, [age,

race,] place of birth, [occupation/industry/business, and address of the birth parent(s); any part of the child's name or any other name containing surnames of either birth parent; and informant name] and last known address of the biological parent;

[(I)](J) “Intermediary,” the person or agency identified by the birth parent or adoptee to act as a means of contact between the birth parent and adoptee;

(K) “Lineal descendant,” a person who is in direct line to an ancestor, such as child, grandchild, great-grandchild, and so on, either by blood or legal adoption. This does not include a step-child or collateral descendant. Collateral descendants are those from the line of a brother, sister, aunt, or uncle;

[(J)](L) “Original birth certificate,” the adoptee’s registered birth certificate sealed upon court order at the time of adoption;

[(K)](M) “Redact,” to obscure or remove identifying information.

(2) Birth Parent Contact Preference Form. A birth parent may state his or her preference for contact with the adoptee by completing a Cover Sheet for Birth Parent Contact Preference Form *[as published August 2016]* and a Birth Parent Contact Preference Form as published *[November 2016]* August 2018 which are incorporated by reference in this rule and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. Completed forms may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(D) If a birth parent has filed a Birth Parent Contact Preference Form with the department, the department shall provide a copy of the form to the adoptee, adoptee’s attorney, or lineal descendant applicant.

(E) If a birth parent has filed more than one (1) Birth Parent Contact Preference Form, the department shall issue a copy of only the most recently dated Birth Parent Contact Preference Form to the adoptee, adoptee’s attorney, or lineal descendant applicant.

(F) The Birth Parent Contact Preference Form issued to the adoptee, adoptee’s attorney, or lineal descendant shall not include the Cover Sheet for Birth Parent Contact Preference Form.

(G) The department shall not issue a copy of the original birth certificate to the adoptee, adoptee’s attorney, birth parent, or lineal descendant applicant when—

1. The applicant does not meet the requirements of section 193.12/5/8, RSMo, and this rule; or

2. Both birth parents have filed a Birth Parent Contact Preference Form indicating that they prefer not to be contacted or prefer contact through an intermediary.

(H) The department shall issue a non-certified, unredacted copy of the original birth certificate stamped “For genealogical purposes only—not to be used for establishing identity” upon request to a qualified adoptee, adoptee’s attorney, birth parent, or lineal descendant applicant when—

1. The original birth certificate lists two (2) parents and neither birth parent has filed a Birth Parent Contact Preference Form;

2. The original birth certificate lists two (2) parents and both have filed a Birth Parent Contact Preference Form indicating he/she prefers to be contacted;

3. The original birth certificate lists two (2) parents and one (1) parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers to be contacted and the other parent has not filed a Birth Parent Contact Preference Form;

4. The original birth certificate only lists one (1) parent and that parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers to be contacted; or

5. The original birth certificate only lists one (1) parent and that parent has not filed a Birth Parent Contact Preference Form.

(I) The department shall issue a non-certified copy of the original birth certificate stamped “For genealogical purposes only—not to be

used for establishing identity” to the adoptee, adoptee’s attorney, birth parent, or lineal descendant applicant with the identifying information redacted for the birth parent who indicated they prefer not to be contacted or preferred to be contacted by an intermediary when—

1. The original birth certificate only lists one (1) parent and that parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers not to be contacted or prefers contact by an intermediary;

2. The original birth certificate lists two (2) parents and one (1) parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers not to be contacted or prefers contact through an intermediary and the other parent has not filed a Birth Parent Contact Preference Form; or

3. The original birth certificate lists two (2) parents and one (1) parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers not to be contacted or prefers contact through an intermediary and the other parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers to be contacted.

(3) Birth Parent Medical History Form. A birth parent may provide or update his or her medical history by completing a Cover Sheet for Birth Parent Medical History Form and a Birth Parent Medical History Form as published August 2018 which are incorporated by reference in this rule *[as published August 2016]* and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. Completed forms may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(E) The department shall not use the information on the Cover Sheet for Birth Parent Medical History Form or Birth Parent Medical History Form for statistical or any other purposes and shall not disclose the information to anyone other than the adoptee *[or the]*, adoptee’s attorney, or lineal descendant applicant.

(F) The copy of the Birth Parent Medical History Form issued to the adoptee, adoptee’s attorney, or lineal descendant shall not include the Cover Sheet for Birth Parent Medical History Form.

(4) Adoptee Contact Preference Form. An adoptee may state his or her preference for contact with the birth parent(s) by completing a Cover Sheet for Adoptee Contact Preference Form and an Adoptee Contact Preference Form as published August 2018 which are incorporated by reference in this rule and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. Completed forms may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) An adoptee shall provide to the department adequate information as requested on the Cover Sheet for Adoptee Contact Preference Form so that the department can identify the correct sealed file in which to place the form. An adoptee shall also pay a non-refundable fee for processing the form and searching for the original birth record in an amount equal to the fee for a certified copy of a birth certificate. If the department is unable to identify the correct sealed file based upon the information provided by the adoptee on the Cover Sheet for Adoptee Contact Preference Form, the department shall return the Cover Sheet for Adoptee Contact Preference Form and the Adoptee Contact Preference Form to the adoptee.

(B) An adoptee may change his or her contact preference by completing a new Cover Sheet for Adoptee Contact Preference Form and Adoptee Contact Preference Form. An adoptee shall also pay a non-refundable fee for processing the form and searching for the original birth record in an amount equal to the fee for a certified copy of a birth certificate. The forms and fee shall be

mailed or delivered to the department at the address listed in section (4) above. If the department is unable to identify the correct sealed file based upon the information provided by the adoptee on the Cover Sheet for Adoptee Contact Preference Form, the department shall return the Cover Sheet for Adoptee Contact Preference Form and the Adoptee Contact Preference Form to the adoptee.

(C) An adoptee may request that a birth parent contact him or her only through an intermediary, rather than be contacted directly by the birth parent, as indicated by the adoptee on the Adoptee Contact Preference Form. In this case, the adoptee shall write the name and contact information of the intermediary on the Adoptee Contact Preference Form.

(D) If an adoptee has filed an Adoptee Contact Preference Form with the department, the department shall provide a copy of the form to the birth parent and lineal descendant applicant.

(E) If an adoptee has filed more than one (1) Adoptee Contact Preference Form, the department shall issue a copy of only the most recently dated Adoptee Contact Preference Form to the birth parent or lineal descendant applicant.

(F) The Adoptee Contact Preference Form issued to the birth parent and lineal descendant applicant shall not include the Cover Sheet for Adoptee Contact Preference Form.

[(4)](5) Adoptee[s born before 1941], Adoptee's Attorney, and Birth Parent Request for Original Birth Certificate. An adoptee *[born before 1941, for the] adoptee's attorney, or birth parent* may request a copy of the adoptee's original birth certificate *[beginning August 28, 2016,]* by completing an Application for Non-Certified Copy of an Original Birth Certificate by **Adoptee, Adoptee's Attorney, or Birth Parent** form which is incorporated by reference in this rule as published *[November 2016] August 2018* and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. The application shall include a non-refundable fee in an amount equal to the fee for a certified copy of a birth certificate. Completed forms and fees may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) If the adoptee's attorney submits the Application for Non-Certified Copy of an Original Birth Certificate by **Adoptee, Adoptee's Attorney, or Birth Parent** form, the attorney shall provide the department with a statement signed by the adoptee or other documentation establishing the attorney's authority to act on behalf of the adoptee.

(B) The applicant shall furnish to the department adequate information as requested on the Application for Non-Certified Copy of an Original Birth Certificate **Adoptee, Adoptee's Attorney, or Birth Parent** form so that the department can identify the correct sealed file containing the original birth certificate.

(C) The department shall issue copies of the **original** birth certificate to the **adoptee, adoptee's attorney, or birth parent(s)** as provided in subsections (2)(G)-(I) of this rule. If the department cannot locate the original birth certificate, the department shall issue to the applicant a written statement that no record was found.

(D) The copy of the original birth certificate issued to the **adoptee, adoptee's attorney, or birth parent** applicant shall be stamped "For genealogical purposes only—not to be used for establishing identity."

(E) If the adoptee's **birth** parent(s) have provided a Birth Parent Contact Preference Form or Birth Parent Medical History Form to the department, the department shall provide a copy to the **adoptee, adoptee's attorney, or lineal descendant** applicant.

[(5) Adoptees born in or after 1941. An adoptee born in or after 1941, or the adoptee's attorney, may request a copy of the adoptee's original birth certificate beginning January 1, 2018. To make a request, an applicant shall complete the Application for Non-Certified Copy of an Original Birth

Certificate form which is incorporated by reference in this rule as published November 2016 and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. The application shall include a non-refundable fee in an amount equal to the fee for a certified copy of a birth certificate. Completed forms and fees may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) If the adoptee's attorney submits the Application for Non-Certified Copy of an Original Birth Certificate form, the attorney shall provide the department with a statement signed by the adoptee or other documentation establishing the attorney's authority to act on behalf of the adoptee.

(B) The applicant shall furnish to the department adequate information as requested on the Application for Non-Certified Copy of an Original Birth Certificate form so that the department can identify the correct sealed file containing the original birth certificate.

(C) The department shall issue copies of the birth certificate as provided in subsections (2)(G)-(I) of this rule. If the department cannot locate the original birth certificate, the department shall issue to the applicant a written statement that no record was found.

(D) The copy of the original birth certificate issued to the applicant shall be stamped "For genealogical purposes only—not to be used for establishing identity."

(E) If the adoptee's parent(s) have provided a Birth Parent Contact Preference Form or Birth Parent Medical History Form to the department, the department shall provide a copy to the applicant.]

(6) Lineal Descendant Request for Original Birth Certificate. Lineal descendants of a deceased adoptee may request a copy of the adoptee's original birth certificate by completing an Application for Non-Certified Copy of an Original Birth Certificate by **Lineal Descendant** form which is incorporated by reference in this rule as published August 2018 and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. The application shall include a non-refundable fee in an amount equal to the fee for a certified copy of a birth certificate. Completed forms and fees may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) The applicant shall furnish to the department adequate information as requested on the Application for Non-Certified Copy of an Original Birth Certificate by **Lineal Descendant** form so that the department can identify the correct sealed file containing the original birth certificate.

(B) The department shall not issue a copy of the original birth certificate to the applicant when—

1. The applicant cannot provide a certified death certificate of the adoptee; or

2. The applicant cannot provide documentation that confirms the applicant is a lineal descendant of the adoptee.

(C) The department shall issue copies of the original birth certificate to the lineal descendant as provided in subsections (2)(G)-(I) of this rule. If the department cannot locate the original birth certificate, the department shall issue to the applicant a written statement that no record was found.

(D) The copy of the original birth certificate issued to the applicant shall be stamped "For genealogical purposes only—not to be used for establishing identity."

(E) If the adoptee's birth parent(s) have provided a Birth Parent Contact Preference Form or Birth Parent Medical History Form to the department, or the adoptee has provided an Adoptee

Contact Preference Form to the department, the department shall provide a copy of the form(s) to the lineal descendant applicant.

[(6)](7) Applicants, birth parents, or others shall not send to the department items other than the forms prescribed by this regulation (e.g., letters, papers, photos, mementos, etc). Any such items sent to the department shall be discarded.

[(7)](8) The department shall not issue copies of vital records, including birth, death, marriage, or divorce records, for the birth parents to an adoptee, **adoptee's attorney, or lineal descendant of the adoptee.**

(9) The department shall not release any information pertaining to the adoptee other than the original birth certificate or Adoptee Contact Preference form, if completed, to the birth parent.

[(8)](10) The department shall not amend the adoptee's original birth certificate as defined in this rule.

(11) When the state registrar of vital records finds evidence that an application was made through misrepresentation or fraud, he or she shall have authority to withhold issuance of a certificate until a court determination of facts has been made.

AUTHORITY: sections 193.035[,] and 193.045, RSMo 2016, and section 193.128, RSMo [2016] Supp. 2018. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective Feb. 28, 2017. Emergency amendment filed Sept. 10, 2018, effective Sept. 20, 2018, expires March 18, 2019. Amended: Filed Sept. 10, 2018.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions eighty thousand seven hundred eighty-seven dollars (\$80,787) annually in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities eighty-six thousand one hundred forty-five dollars (\$86,145) annually in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, Division of Community and Public Health, Kerri Tesreau, Division Director, PO Box 570, Jefferson City, MO 65102-0570. 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: Health and Senior Services
Division Title: Office of the Director
Chapter Title: Vital Records**

| | |
|------------------------------|--|
| Rule Number and Name: | 19 CSR 10-10.130 Missouri Adoptee Rights |
| 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 Health and Senior Services | \$80,787 |
| | |
| | |

III. WORKSHEET

Revenues

- 1,375 birth parent requests (application) for birth certificates x \$15 per application - \$20,625
- 1,200 contact preference forms filed by adoptees x \$15/form = \$18,000.
- 3,168 birth certificates issued to deceased adoptee lineal descendants x \$15/per application - \$47,520.
- Total revenue = \$86,145 (\$20,625 + \$18,000 + \$47,520)
- Per Section 193.265, RSMo, DHSS only receives \$5 of the \$15 collected for each birth certificate and form. Therefore, the total revenue to DHSS equals \$28,715.

Expenses

- 2.0 FTE Senior Office Support Assistant positions (salary, benefits, and standard equipment and expense) = \$107,276
- Postage for 4,543 requests/certificates issued x \$0.49 = \$2,226
- Total expenses = \$109,502

Net for DHSS: \$28,715 (Revenues) - \$109,502 (Expenses) = \$80,787 (Expenses)

IV. ASSUMPTIONS

- Based on the number of requests for adoptee original birth certificates received from October 2017-March 2018 and factoring that request by 25%, it is estimated that 1,375 requests for birth certificates by birth parents will be made each year.

DHSS shall collect a \$15 non-refundable fee per application for a copy of an original birth certificate received.

- Based on the number of Birth Parent Contact Preference Forms received, DHSS estimates that 1,200 Adoptee Contact Preference forms will be filed with DHSS each year. DHSS shall collect a \$15 non-refundable fee for each Adoptee Contact Preference Form filed.
- Based on the number of phone calls received each month inquiring about receiving a copy of an original birth certificate for a deceased adoptee, DHSS estimates receiving 3,168 requests per year (264 x 12 months). DHSS shall collect a \$15 non-refundable fee per application for a copy of an original birth certificate received.
- Based on the average time needed to process adoptee original birth certificate requests and to file contact preference forms, 2.0 FTE clerical positions will be needed to fill an additional 5,743 requests each year.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Health and Senior Services
Division Title: Office of the Director
Chapter Title: Vital Records**

| | |
|-------------------------------|--|
| Rule Number and Title: | 19 CSR 10-10.130 Missouri Adoptee Rights |
| 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: |
|---|--|--|
| 400,000 | Birth Parents of Missouri Adoptees | \$20,625 |
| 200,000 | Missouri Adoptees | \$18,000 |
| 500,000 | Lineal Descendants of Deceased Missouri Adoptees | \$47,520 |
| | Total | \$86,145 |

III. WORKSHEET

- 1,375 applications for copies of original birth certificate by birth parents x \$15 per application = \$20,625 (annually)
- 1,200 Adoptee Contact Preference Forms filed x \$15 per form = \$18,000 (annually)
- 3,168 applications for copies of original birth certificate of deceased adoptee by lineal descendants x \$15 per application = \$47,520 (annually)

IV. ASSUMPTIONS

- Based on the number of requests for adoptee original birth certificates received from October 2017-March 2018 and factoring that request by 25%, it is estimated that 1,375 requests for birth certificates by birth parents will be made each year. DHSS shall collect a \$15 non-refundable fee per application for a copy of an original birth certificate received.
- Based on the number of Birth Parent Contact Preference Forms received, DHSS estimates that 1,200 Adoptee Contact Preference forms will be filed with DHSS

each year. DHSS shall collect a \$15 non-refundable fee for each Adoptee Contact Preference Form filed.

- Based on the number of phone calls received each month inquiring about receiving a copy of an original birth certificate for a deceased adoptee, DHSS estimates receiving 3,168 requests per year (264 x 12 months). DHSS shall collect a \$15 non-refundable fee per application for a copy of an original birth certificate received.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES**
Division 30—Division of Regulation and Licensure
Chapter 1—Controlled Substances

PROPOSED AMENDMENT

19 CSR 30-1.023 Registration Changes. The department is amending sections (1) and (2).

PURPOSE: This proposed rule amendment allows authorized registrants to modify their registration to allow the collection of unwanted controlled substances.

(1) Modification of Registration.

(A) Any registrant may apply to modify his/her registration to authorize the handling of controlled substances in additional schedules by submitting a request in writing to the department. No fee shall be required to be paid for the modification. The application for modification shall be handled in the same manner as an application for registration.

(B) Any registrant may request to modify his or her name or address as shown on the registration provided that such a modification does not constitute a change of ownership or location. The request shall be made in writing[,] and no fee shall be required to be paid for the modification. The request for changes may be submitted electronically using the department's online database system. Requests submitted in paper form shall contain the registrant's signature.

(C) When the registrant's name or address as shown on the registration changes, the registrant shall notify the Department of Health and Senior Services in writing, including the registrant's signature, prior to or within thirty (30) days subsequent to the effective date of the change. No fee shall be required to be paid for the modification.

(D) **Collector of Unwanted Controlled Substances.** A current registrant with the department may request to have their registration modified to authorize the collection of unwanted controlled substances. Requests shall be submitted in writing to the Bureau of Narcotics and Dangerous Drugs, PO Box 570, Jefferson City, Missouri, 65102-0570. Requests shall provide the requesting registrant's name, address, and current Missouri Controlled Substances Registration number. Requests shall identify the method of collection such as either a collection receptacle box or mail-back return system, or both, and shall identify the exact physical address of the receptacle. Collection receptacles located in long-term care facilities shall be maintained by a retail pharmacy. The bureau will respond to the registrant's request in writing. Registrants authorized by the department to collect unwanted controlled substances shall comply with all requirements for record keeping and security in accordance with federal regulations. The privilege of being a collector may be terminated if the registrant's authority to collect is terminated by the United States Drug Enforcement Administration, a judicial order, an act by a state licensing board or agency, or if the collector's registration is restricted as a matter of public discipline by the department. An authorized collector who wishes to cease being a collector shall notify the bureau in writing of the date that collections will cease.

(2) Termination of Registration.

(A) The registration of any person shall terminate—

1. On the expiration date assigned to the registration at the time the registration was issued;
2. If and when the person dies;
3. If and when the person ceases legal existence;
4. If and when a business changes ownership, except—

A. The registration shall not terminate for thirty (30) days from the effective date of the change if the new owner applies for a

registration within the thirty- (30-)/-] day period and the corresponding Drug Enforcement Administration registration remains effective as provided for by the Drug Enforcement Administration;

5. If and when the person discontinues business or changes business location, except—

A. The registration shall not terminate for thirty (30) days from the effective date of the change if the person applies for a new registration or modification within the thirty- (30-)/-] day period; or

6. Upon the written request of the registrant.

AUTHORITY: section 195.195, RSMo [2000] Supp. 2018. Original rule filed April 14, 2000, effective Nov. 30, 2000. Amended: Filed Jan. 31, 2003, effective July 30, 2003. Amended: Filed April 29, 2011, effective Nov. 30, 2011. Emergency amendment filed Sept. 17, 2018, effective Sept. 27, 2018, expires March 25, 2019. Amended: Filed Sept. 17, 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, by contacting Michael Boeger with the Missouri Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs, PO Box 570, Jefferson City, MO 65102-0570. 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 30—Division of Regulation and Licensure
Chapter 1—Controlled Substances

PROPOSED AMENDMENT

19 CSR 30-1.064 Partial Filling of [Schedule II] Controlled Substance Prescriptions. The department is modifying the title of the rule, eliminating section (2), and adding a new section (2).

PURPOSE: This proposed rule amendment establishes conditions under which the partial filling of prescriptions in Schedules II, III, IV, or V is permissible.

[(2) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness, may be filled in partial quantities to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist must contact the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record on the prescription whether the patient is "terminally ill" or an "LTCF patient." A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" shall be deemed to have been filled in violation of Chapter 195, RSMo. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist.

The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions for patients in an LTCF or patients with a medical diagnosis documenting a terminal illness, shall be valid for a period not to exceed sixty (60) days from the issue date unless sooner terminated by the discontinuance of medication.]

(2) The partial filling of a prescription for controlled substances listed in Schedules II, III, IV, or V is permissible, provided that:

(A) Partial filling may occur at the request of a patient or it may be directed by the prescriber;

(B) Each partial dispensing is recorded in the same manner as a refilling would be;

(C) With each partial dispensing, the pharmacy must document the date and quantity dispensed on the original prescription record or their approved electronic computer applications, provided that the electronic system meets all of the federal requirements for handling of electronic prescriptions for controlled substances, including the ability to retrieve the information pertaining to partially filled controlled substances;

(D) The total quantity dispensed in all partial fillings cannot exceed the total quantity prescribed;

(E) No dispensing occurs after six (6) months after the date on which the original prescription was issued;

(F) A partial dispensing is not considered a “refill” if the patient does not receive the full authorized amount at one (1) time; and

(G) The prescription was written and filled in accordance with all other applicable laws and regulations.

AUTHORITY: sections 195.080 and 195.195, RSMo Supp. [2014] 2018. Original rule filed April 14, 2000, effective Nov. 30, 2000. Amended: Filed Jan. 29, 2015, effective July 30, 2015. Emergency amendment filed Sept. 17, 2018, effective Sept. 27, 2018, expires March 25, 2019. Amended: Filed Sept. 17, 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 Michael Boeger, Administrator, Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs, PO Box 570, Jefferson City, Missouri 65102-0570. 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 30—Division of Regulation and Licensure Chapter 1—Controlled Substances

PROPOSED AMENDMENT

19 CSR 30-1.078 Disposing of Unwanted Controlled Substances.

The department is amending sections (1) and (3), and repealing sections (2) and (4), to be replaced with new sections (2) and (4).

PURPOSE: This amendment establishes the process for authorized registrants to collect unwanted controlled substances through collection receptacles or a mail-back program and amends requirements for destruction of controlled substances by registrants.

(1) A registrant in possession of any controlled substance(s) and desiring or required to dispose of such substance(s) shall:

(A) Return the controlled substance(s) to the original supplier;

(B) Transfer the controlled substance(s) to a distributor authorized to accept controlled substance(s) for the purpose of disposal;

(C) Submit a DEA Form 41 to the federal Drug Enforcement Administration (DEA) requesting authorization to dispose of the controlled substance(s) in compliance with federal regulations;

(D) Become an Authorized Collector of Controlled Substance(s). Registrants shall dispose of all unwanted controlled substance(s) and keep records in accordance with federal regulations. Only manufacturers, distributors, reverse distributors, narcotic treatment programs, hospitals, and retail pharmacies that have modified their state and federal controlled substances registrations may possess a collection receptacle for medication disposal or participate in the DEA approved mail-back system;

[(D)](E) Contact the Bureau of Narcotics and Dangerous Drugs (BNDD), Department of Health and Senior Services for information pertaining to subsections (1)(A), (B), [or] (C), or (D) of this rule.

[[2] The return, transfer or disposal of any controlled substance shall be documented in accordance with 19 CSR 30-1.044.]

(2) Destruction of controlled substance(s) in patient care areas.

(A) Controlled substance(s) that have been contaminated by patient contact are to be destroyed on site. An excess volume of a controlled substance which must be discarded from a dosage unit just prior to administration shall also be destroyed on site.

(B) Controlled substances that have not been contaminated by patient contact or are not excess volumes of a dosage unit shall not be destroyed on site unless the registrant has obtained authorization from the United States Drug Enforcement Administration to destroy such drugs and destruction is documented on the DEA Form 41. Unwanted controlled substances that have been expired, discontinued, or are otherwise unwanted shall be disposed of by methods listed previously in section (1) of this rule.

(C) In a hospital patient care area, unwanted controlled substance(s) that have not been contaminated by patient contact shall be returned to the pharmacy for final disposal.

(D) The destruction of controlled substance(s) shall be in such a manner that it renders the medication unrecoverable and beyond reclamation so that it cannot be diverted.

(E) The destruction and documentation of destruction shall be performed and completed by two (2) people. One (1) of the people must be a licensed physician, nurse, pharmacist, intern pharmacist, pharmacy technician, assistant physician, physician assistant, podiatrist, optometrist, dentist, or veterinarian. The second person, the witness, is not required to be a licensed medical professional but must be an employee of the registrant, unless in an Emergency Medical Service (EMS) setting.

(F) The following shall be entered in the controlled substance administration record or a separate controlled substance destruction record when the controlled substance is destroyed in the patient care area: the date and hour of destruction, the drug name and strength, the amount destroyed, the reason for destruction, the patient’s name and room number if applicable, and the names or initials of the two (2) persons performing the destruction. The controlled substance administration and destruction records are to be retained for two (2) years and available for inspection by the Department of Health and Senior Services;

(3) In the event the registrant is a hospital, the following procedures are to be used for the destruction of controlled substance(s):

(A) When disposal of controlled substance(s) is in patient care areas—

1. Controlled substances which are contaminated by patient body fluids are to be destroyed by a physician, nurse, or a pharmacist in the presence of another hospital employee;

2. An excess volume of a controlled substance which must be discarded from a dosage unit just prior to use shall be destroyed by a nurse, pharmacist, or physician in the presence of another hospital employee;

3. The remaining contents of opened glass ampules of controlled substance(s) shall be destroyed by a nurse, pharmacist, or physician in the presence of another hospital employee;

4. Single units of single dose packages of controlled substance(s) which are contaminated other than by patient body fluids and are not an infectious hazard, *[or]* have been removed from their original or security packaging, *[or]* are partially used, or are otherwise rendered unsuitable for patient use shall be destroyed by a nurse, pharmacist, or physician in the presence of another hospital employee or returned to the pharmacy for destruction;

5. The following shall be entered in the controlled substance administration record or a separate controlled substance destruction record when the controlled substance(s) is destroyed in the patient care area: the date and hour of destruction, the drug name and strength, the amount destroyed, the reason for destruction, and the patient's name and room number. The nurse, pharmacist, or physician and the witnessing hospital employee shall sign the entry. The drug shall be destroyed so that it is beyond reclamation. The controlled substance administration or destruction records are to be retained for two (2) years and available for inspection by Department of Health investigators;

6. All other controlled substances which are not patient contaminated but which are to be disposed of shall be returned to the pharmacy for disposal;

(B) When disposal of controlled substance(s) is in the pharmacy—

1. Single units of controlled substance(s) which are contaminated other than by patient body fluids and are not an infectious hazard, *[or]* have been removed from their original or security packaging, *[or]* are partially used, or are otherwise rendered unsuitable for patient use shall be destroyed by a pharmacist in the presence of another hospital employee or held for later destruction;

2. All other controlled substances which are not patient contaminated but are to be disposed of shall be placed in a suitable container for storage and disposed of as described in section (1) of this rule.

[(4) If the registrant administers controlled substances and is not a hospital, the following procedures are to be used for the destruction of controlled substances:

(A) Controlled substances which are contaminated by patient body fluids are to be destroyed, in the presence of another employee, by the registrant or designee authorized to administer;

(B) An excess volume of a controlled substance which must be discarded from a dosage unit just prior to use is to be destroyed, in the presence of another employee, by the registrant or designee authorized to administer;

(C) The remaining contents of opened glass ampules of controlled substances which are not patient contaminated are to be destroyed, in the presence of another employee, by the registrant or designee authorized to administer;

(D) When the controlled substance is destroyed by the registrant or designee authorized to administer, the following shall be entered in the controlled substances administration records or a separate controlled substances destruction record: the date and amount destroyed, the reason for destruction and the registrant's name and address. The registrant or designee doing the destruction and the witnessing employee shall sign the entry. The drug shall be destroyed so that it is beyond reclamation. The controlled substances administration or destruction records are to be retained for two years and available for inspection by Department of

Health investigators;

(E) All other controlled substances which are not patient-contaminated but are to be disposed of shall be placed in a suitable container for storage and disposed of as described in section (1) of this rule.]

(4) Collection Receptacle Boxes for Patients' Unwanted Controlled Substance Prescriptions.

(A) Hospitals, pharmacies, narcotic treatment programs, and long-term care facilities are authorized to install collection receptacle boxes or participate in a DEA approved mail-back method to collect unwanted controlled substance prescription medications from patients. Registrants must comply with federal regulations regarding security and record keeping. Collection receptacles shall be used only for patients' unwanted medications and not for the expired or unwanted stock of a practitioner or facility.

(B) All facilities and locations with collection receptacle boxes and mail-back systems shall comply with federal regulations.

1. Patients' medications from long-term care facilities and narcotic treatment programs shall be placed in a receptacle within three (3) days of the expiration date on the medication; upon a discontinuation of use authorized by a prescriber; or upon the death of a patient.

2. Collection receptacle boxes shall be installed, maintained, and managed by a retail pharmacy or hospital pharmacy.

(C) Record keeping for collection receptacle boxes. Registrants or their employees shall not inventory the contents of the collection receptacle box. The collection receptacle box is to be opened by two (2) people; one (1) shall be an employee of the pharmacy and the other may be an employee of the facility receiving pharmaceutical services. All registrants with collection receptacle boxes shall maintain a perpetual log that documents entry into the collection receptacle box, changing of liners, and transfers of drugs from the registrant to a reverse distributor. These logs shall be maintained on file at the registered location for inspection and shall document the date of entries into the collection receptacle box, the names of the employees entering the collection receptacle box, the reason for entering the receptacle, the serial number of a liner being removed, and the serial number of a new liner being installed. This log shall also be used to document the transfer of a liner from the registrant to a reverse distributor by documenting the date of transfer, serial number of the liner, names of the persons involved in the transfer, and the DEA number of the reverse distributor. The log shall also document when the pharmacy changes out the interior liner bags and document the serial number of the bag being removed and of the new bag being installed.

AUTHORITY: sections 195.050 and 195.195, RSMo [1994] Supp. 2018. Original rule filed April 14, 2000, effective Nov. 30, 2000. Emergency amendment filed Sept. 17, 2018, effective Sept. 27, 2018, expires March 25, 2019. Amended: Filed Sept. 17, 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, by contacting Michael Boeger with the Missouri Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs, PO Box 570, Jefferson City, MO 65102-0570. 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.

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

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-3.105 Filing Requirements for Electric Utility Applications for Certificates of Convenience and Necessity is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 979). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission; the Office of the Public Counsel; Dogwood Energy, LLC; Union Electric Company, d/b/a Ameren Missouri; Ameren Transmission Company of Illinois (ATXI); Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (KCP&L/GMO); The Empire District Electric Company; the Missouri Division of Energy; and Wind on the Wires. Kevin Thompson, representing the commission's

staff, and Natelle Dietrich, on behalf of staff; Hampton Williams, Public Counsel; James Fischer, representing KCP&L/GMO; Paul Boudreau, representing Empire; Marc Poston, representing the Division of Energy; Sean Brady, representing Wind on the Wires; James Lowery, representing Ameren Missouri and ATXI, and Thomas Byrne, on behalf of Ameren Missouri, appeared at the hearing and offered comments.

The commission has proposed to rescind this Chapter 3 rule, revise its contents, and promulgate a new rule in Chapter 20. Most of the comments address the provisions of the new Chapter 20 rule and will be addressed in the final order of rulemaking for that rule. Only those comments regarding the rescission of the Chapter 3 rule will be addressed in this order of rulemaking.

COMMENT #1: Staff explained that the rescission of this Chapter 3 rule and the promulgation of a new Chapter 20 rule is designed to simplify the commission's rules by combining most, if not all, electric-only rules into a single electric utility chapter.

RESPONSE: The commission thanks staff for its explanation.

COMMENT #2: Public Counsel's written comment points out that the rescission of the Chapter 3 rule and its re-promulgation as a Chapter 20 rule is contrary to the commission's stated intent when it created Chapter 3 in 2002 to gather all procedural requirements for all utilities into a single chapter of its rules.

RESPONSE: The commission has changed its view on the collection of all procedural requirements for all utilities into a single chapter of its rules. The commission's experience since 2002 has shown that collecting all procedural requirements into a single chapter has created more confusion than it relieved as stakeholders must consult two (2) or more distinct chapters of the rules to be sure they have found all relevant rule requirements. The commission will continue to move those Chapter 3 procedural rules that affect a single utility classification into the rules that apply to that utility classification as it is appropriate to do so.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 20—Electric Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-20.045 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 15, 2018 (43 MoReg 979-981). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rule on June 19, 2018. The commission received timely written comments from the staff of the commission; the Office of the Public Counsel; Dogwood Energy, LLC; Union Electric Company, d/b/a Ameren Missouri; Ameren Transmission Company of Illinois (ATXI); Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (KCP&L/GMO); The Empire District Electric Company; the Missouri Division of Energy; and Wind on the Wires. Kevin Thompson, representing the commission's

staff, and Natelle Dietrich, on behalf of staff; Hampton Williams, Public Counsel; James Fischer, representing KCP&L/GMO; Paul Boudreau, representing Empire; Marc Poston, representing the Division of Energy; Sean Brady, representing Wind on the Wires; James Lowery, representing Ameren Missouri and ATXI, and Thomas Byrne, on behalf of Ameren Missouri, appeared at the hearing and offered comments.

COMMENT #1: Subsection (1)(A) defines the term “acquire or acquisition” for purposes of the rule. This definition would be necessary if other provisions of the rule require an electric utility to seek a certificate of convenience and necessity, a CCN, when it acquires existing electric plant from some other entity. Ameren Missouri, KCP&L/GMO, and Public Counsel oppose what they believe is an improper expansion of the commission’s statutory authority to require an electric utility to obtain a CCN before acquiring existing electric plant and thus would delete this definition as unnecessary. During the hearing, staff suggested that the rule be modified to require an electric utility to obtain a CCN when it wants to “operate” existing electric plant that it does not already own, rather than when it seeks to “acquire” such plant. With that change, staff also supports the elimination of this definition. Dogwood would keep the definition, but would insert the word “obtaining” into the definition.

RESPONSE AND EXPLANATION OF CHANGE: The commission will strike the definition of “acquire or acquisition” from the rule and instead will refer to “operation” throughout the rule. Subsequent provisions of the section will be renumbered accordingly.

COMMENT #2: Subsection (1)(B) defines the term “asset,” which are the items of electric plant for which the rule requires an electric utility to seek a CCN. Ameren Missouri and KCP&L/GMO would eliminate the aspects of the definition that would define asset as including assets located outside the state of Missouri, as well as existing assets to be “acquired,” as addressed in comment #1. Dogwood would add “switching station” and “electric transmission line” to the list of described assets. Public Counsel would define “generating plant asset” rather than “asset.” In addition, Public Counsel, as well as Ameren Missouri, expressed concern that use of the word “includes” at the start of the definition is ambiguous in that it does not make it clear whether the definition is exhaustive. Ameren Missouri explains that the utilities must be certain whether they will be required to seek a CCN for a particular project or else they will need to seek a CCN for every project in order to protect themselves from allegations of failing to obtain a CCN when one is needed.

RESPONSE AND EXPLANATION OF CHANGE: The commission will modify the definition of asset to clarify that it includes electric generating plant that is expected to serve Missouri customers and will be included in the applicant’s rate base used to set rates for Missouri customers, whether that plant is in or outside the utility’s existing service territory and in or outside the state of Missouri. The definition will further clarify that a transmission or distribution asset for which a CCN is required would include only assets located outside the utility’s existing service area, but within Missouri. The definition will also be clarified to demonstrate the exhaustive nature of the list by changing “includes” at the start of the definition to “means.”

COMMENT #3: Subsection (1)(C) and its constituent paragraphs and subparagraphs seek to define the term “construction” by specifying five (5) projects that would fit the definition. Again, Public Counsel and Ameren Missouri express concern that use of “includes” at the start of the definition is ambiguous.

RESPONSE AND EXPLANATION OF CHANGE: The commission will change “includes” to “means” at the beginning of the definition to avoid any ambiguity.

COMMENT #4: Paragraph (1)(C)2. would include as “construction,” construction of a new electric transmission line or a rebuild of a transmission line if it would result in a significant increase in the

capacity of the line, or if there is a change in the route or easements associated with the line. Ameren Missouri is concerned this definition would result in an increase in the number of CCNs required by the rule. Additionally, Ameren Missouri is concerned that the term “significant” is ambiguous and does not provide clear guidance on when a CCN will be required. Further, Ameren Missouri, Empire, and KCP&L/GMO indicate the expansion of the definition of construction to include any “rebuild” of an existing asset is contrary to the statute’s requirement for a CCN before beginning “construction.” They contend an asset that is being rebuilt has already been constructed and therefore the statute does not give the commission authority to require a CCN. In addition, Ameren Missouri argues the definition of “construction” must not include any project within the electric utility’s existing service area because to do so would increase the number of CCNs required by the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission will substantially rewrite the definition of construction in response to the concerns raised in the comments. However, the commission continues to believe a substantial improvement, retrofit, or rebuild of an electric asset does require the issuance of a CCN. To avoid the problems identified by the commenters, the commission will limit the CCN requirement for such projects to those that would increase the utility’s established rate base by ten percent (10%) or more.

COMMENT #5: Paragraph (1)(C)3. would define as construction for which a CCN is required, construction of a new substation or the rebuild of an existing substation that would result in a significant increase in capacity or size of the substation. Again, Ameren Missouri is concerned that this definition would result in an increase in the number of CCNs required by the rule. Additionally, Ameren Missouri is concerned that the term “significant” is ambiguous and does not provide clear guidance on when a CCN will be required. Further, Ameren Missouri, Empire, and KCP&L/GMO indicate the expansion of the definition of construction to include any “rebuild” of an existing asset is contrary to the statute’s requirement for a CCN before beginning “construction.” They contend that an asset that is being rebuilt has already been constructed and therefore the statute does not give the commission authority to require a CCN. In addition, Ameren Missouri argues the definition of “construction” must not include any project within the electric utility’s existing service area because to do so would increase the number of CCNs required by the rule.

RESPONSE AND EXPLANATION OF CHANGE: See the response to comment #4. This particular paragraph has been removed from the rule.

COMMENT #6: Paragraph (1)(C)4. would define as construction for which a CCN is required, construction or rebuild of a gas transmission line that facilitates the operation of an electric generating plant. Again, Ameren Missouri is concerned that this definition would result in an increase in the number of CCNs required by the rule. Additionally, Ameren Missouri is concerned that the term “significant” is ambiguous and does not provide clear guidance on when a CCN will be required. Further, Ameren Missouri, Empire, and KCP&L/GMO indicate the expansion of the definition of construction to include any “rebuild” of an existing asset is contrary to the statute’s requirement for a CCN before beginning “construction.” They contend that an asset that is being rebuilt has already been constructed and therefore the statute does not give the commission authority to require a CCN. In addition, Ameren Missouri argues the definition of “construction” must not include any project within the electric utility’s existing service area because to do so would increase the number of CCNs required by the rule.

RESPONSE AND EXPLANATION OF CHANGE: See the response to comment #4. This particular paragraph has been removed from the rule.

COMMENT #7: Paragraph (1)(C)5. and subparagraphs A.–D. would

define as construction for which a CCN is required, an improvement or retrofit of an electric generating plant that will substantially increase the capacity of the generating plant, materially change the discharges of the plant, increase the useful life of the plant, or increase the utility's rate base by ten percent (10%). Again, Ameren Missouri is concerned that this definition would result in an increase in the number of CCNs required by the rule. Additionally, Ameren Missouri is concerned that the term "significant" is ambiguous and does not provide clear guidance on when a CCN will be required. Further, Ameren Missouri, Empire, and KCP&L/GMO indicate the expansion of the definition of construction to include any "rebuild" of an existing asset is contrary to the statute's requirement for a CCN before beginning "construction." They contend that an asset that is being rebuilt has already been constructed and therefore the statute does not give the commission authority to require a CCN. In addition, Ameren Missouri argues the definition of "construction" must not include any project within the electric utility's existing service area because to do so would increase the number of CCNs required by the rule. Ameren Missouri is also concerned that subparagraph (1)(C)5.D. does not establish a clear baseline to measure a ten percent (10%) increase in the utility's rate base.

RESPONSE AND EXPLANATION OF CHANGE: See the response to Comment #4. This paragraph and its subparagraphs have been removed from the rule, except for subparagraph (1)(C)5.D.'s provision that requires a CCN application for the improvement, retrofit, or rebuild of an asset that will increase the utility's total rate base by ten percent (10%). A baseline has also been established for which to measure the ten percent (10%) increase.

COMMENT #8: Subsection (1)(D) and its constituent paragraphs seek to define what projects are not "construction" and therefore do not require a CCN. Paragraph (1)(D)1. exempts construction of new electric or gas transmission lines if the lines are to be constructed within the electric utility's Missouri certificated service area. Ameren Missouri points out a contradiction between the exemption offered by this paragraph and paragraphs (1)(C)2. and 4., which would require a CCN for such projects. Ameren Missouri urges the commission to amend the rule so that no CCN is required for such projects within the electric utility's service area. Dogwood would add "substation," and "switching station" to the list of exempted projects.

RESPONSE AND EXPLANATION OF CHANGE: The commission will modify this provision of the rule to exclude from the definition of construction the new electric or gas transmission lines constructed within the utility's certificated service lines. Such projects are no longer included within the definition of construction so they no longer need to be excluded in this subsection.

COMMENT #9: Paragraph (1)(D)3. exempts from construction CCN transmission projects where the only relationship to Missouri ratepayers is through the Regional Transmission Organization (RTO) cost allocation process. Public Counsel and Wind on the Wires express concern that this definition is unclear. Neither propose a language change, but Wind on the Wires suggests the commission clarify that the paragraph encompasses Midcontinent Independent System Operator (MISO's) Market Efficiency Projects, Multi-Value Projects, Generator Interconnection projects that are cost shared, and inter-regional projects. Dogwood proposes a language change to tie the relationship to retail rates paid by Missouri ratepayers through a regional cost allocation.

RESPONSE AND EXPLANATION OF CHANGE: See the response to comment #4. This paragraph has been removed from the rule.

COMMENT #10: ATXI proposes to add a definition of "non-incumbent electric provider" to describe such a provider as "a Federal Energy Regulatory Commission-regulated transmission company that does not serve Missouri retail customers." The Division of Energy suggests a definition of "non-incumbent electric provider" is needed

to ensure the rule's provisions do not apply to individual residential, small commercial, or industrial customers who own their own generating resources. Ameren Missouri, KCP&L/GMO, Wind on the Wires, and Division of Energy support ATXI's proposed definition. **RESPONSE AND EXPLANATION OF CHANGE:** The commission will not add the proposed definition, but, instead, will not use the term "non-incumbent electric provider" within the rule.

COMMENT #11: Dogwood proposes a new subsection (2)(A) that would clearly describe and summarize the requirements of the rule by stating when an electric utility must obtain a CCN. Ameren Missouri opposes any provision that would purport to expand the CCN requirements stated in the controlling statute. At the hearing, staff agreed with much of Dogwood's proposal.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Dogwood and its staff and will add a new section (2) that succinctly describes when an electric utility must obtain a certificate of convenience and necessity. In addition, because the rule addresses more than just filing requirements, the commission will revise the title of the rule to remove "Filing Requirements for" from the beginning of the title.

COMMENT #12: Public Counsel proposes that the opening statement of section (2) be clarified to make it clear that the additional general requirements of the rule apply only to CCN applications filed by electric utilities.

RESPONSE: The entire rule explicitly applies to electric utilities and there is no need to repeat that fact here. The commission will make no change in response to this comment.

COMMENT #13: Dogwood proposes to change the wording in subsection (2)(A) to require an application to show that granting the application is necessary *and* convenient, rather than necessary *or* convenient.

RESPONSE: The controlling statute requires a showing of necessary *or* convenient. The commission will make no change in response to this comment.

COMMENT #14: Dogwood offers a new subsection (2)(B) that would require an applicant for a CCN to produce evidence that it has complied with all applicable municipal ordinances. Ameren Missouri opposes that suggestion.

RESPONSE: There is no need to explicitly require the additional evidence suggested by Dogwood. The commission will make no change in response to this comment.

COMMENT #15: Ameren Missouri proposes to strike existing subsection (2)(B) because it would apply only to assets acquired or constructed outside Missouri, which Ameren Missouri contends is an unlawful expansion of the commission's statutory authority. Empire and Public Counsel share that position.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes the controlling statute gives it authority to require a CCN where the asset to be constructed or operated is outside this state if it is expected to serve Missouri customers and will be included in the utility's rate base. The word "acquired" will be changed to "operated." See the response to comment #1.

COMMENT #16: Dogwood would make the reference to jurisdiction in subsection (2)(B) plural in recognition of the fact that multiple jurisdictions might be affected.

RESPONSE: Dogwood's proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #17: Ameren Missouri proposes to modify subsection (2)(C) to eliminate the sentence that requires initially unavailable items be provided to the commission before authority under the certificate is exercised. In its place, it would require that items needed

to perform a specific portion of the construction is obtained and filed before that portion of the construction commences. KCP&L/GMO commented that the subsection as proposed was a proper clarification. It did not respond to Ameren Missouri's proposed modification. RESPONSE: The concerns raised by Ameren Missouri are addressed in the proposed rule and additional clarification is unnecessary. The commission will make no change in response to this comment.

COMMENT #18: Public Counsel notes that subsections (2)(D) and (E) are not general requirements in the same way that subsection (2)(A), (B), and (C) are and suggests they be moved to a different position within the rule.

RESPONSE AND EXPLANATION OF CHANGE: Public Counsel's comment is well taken. Subsections (2)(D) and (E) have been moved to new section (2) and have been renumbered as (2)(B) and (C).

COMMENT #19: Subsection (2)(E) recognizes the commission's authority to make a decisional prudence determination about a decision to construct or acquire electric plant. Ameren Missouri supports the concept of a decisional prudence determination, but would remove references in the rule to acquisition of assets, limiting it to construction only, and would also eliminate the references to specific types of assets. Dogwood proposes a similar edit. KCP&L/GMO takes issue with the portion of the subsection that references a "post-construction review of the project." It would add a clarification that such a review would take place within a subsequent general rate case, not within the CCN application case. Public Counsel would eliminate the subsection because presumably the commission would never approve a CCN where the proposal was contrary to the public interest.

RESPONSE AND EXPLANATION OF CHANGE: The commission has rewritten this subsection, which is now (2)(C), in response to the comments. It will now apply to the operation or construction of "assets." It also clarifies that the determination of decisional prudence will be subject to a "subsequent" review.

COMMENT #20: Ameren Missouri would specifically limit application of section (3) to Missouri service areas of the utility.

RESPONSE AND EXPLANATION OF CHANGE: The commission will not make the change proposed by Ameren Missouri, but will limit application of the section to applications for an area certificate pursuant to section 393.170.2, RSMo.

COMMENT #21: Subsection (3)(A) as proposed requires the application for a CCN to provide a map that identifies where each other entity providing electric service in the area to be certificated is currently providing retail electric service. Public Counsel suggests the map to be provided in subsection (3)(A) be at the same scale as the detailed plat map of the proposed service area required by subsection (3)(D).

RESPONSE: Public Counsel's suggestion regarding the scale of the map is unnecessary. The commission will make no change in response to this comment.

COMMENT #22: Subsection (3)(C) as proposed requires the submission of "the legal description of the service area to be certificated." Public Counsel would change that to "a legal description" in recognition that there may be more than one (1) way to legally describe the service area.

RESPONSE: The commission will make no change in response to this comment.

COMMENT #23: Dogwood proposes to add a reference to "leasing" to the reference to proposed financing in the description of "feasibility study" found in subsection (3)(E). Ameren Missouri opposes that change as capital leases are a means of financing and adding the reference would generate confusion.

RESPONSE AND EXPLANATION OF CHANGE: The commission will make no change in response to this comment. However, the

requirement that the application include a three- (3-) year estimate of construction costs is unnecessary and will be removed from the rule.

COMMENT #24: Dogwood would add a new subsection (3)(F) that would require the applicant to provide a copy of its charter. Ameren Missouri opposes that requirement as unnecessary.

RESPONSE: Dogwood's proposal is unnecessary. The commission will make no change in response to this comment.

COMMENT #25: Dogwood would add a new subsection (3)(G) that would require the applicant to provide a verified statement of the president or secretary of the corporation showing it has received the required consent of the proper municipal authorities. Ameren Missouri opposes that requirement as unnecessary.

RESPONSE: Dogwood's proposal is unnecessary. The commission will make no change in response to this comment.

COMMENT #26: Section (4) describes what is to be filed as part of an application for a CCN to acquire an existing asset. The proposed language describes an application to "acquire assets." Dogwood suggests that be changed to "acquire an asset."

RESPONSE AND EXPLANATION OF CHANGE: The commission will change "acquire" to "operated." See the response to comment #1.

COMMENT #27: Ameren Missouri, KCP&L/GMO, and Empire urge the Commission to delete the entire section (4) because they believe requiring the utilities to seek a CCN when seeking to acquire an existing asset is beyond the authority granted to the commission by the controlling statute.

RESPONSE AND EXPLANATION OF CHANGE: The commission will change "acquire" to "operated." See the response to comment #1.

COMMENT #28: Subsection (4)(A) requires an application to acquire assets include a description of the asset to be acquired. Dogwood advises the commission to add "including location" to that requirement.

RESPONSE: The change proposed by Dogwood is unnecessary. The commission will make no change in response to this comment.

COMMENT #29: Subsection (4)(C) requires an application to acquire assets to include the purchase price and plans for financing the acquisition. Dogwood would add "or the terms of the proposed capital lease" to the requirement. Ameren Missouri opposes that change as unnecessary as a capital lease would be a part of the plan for financing the acquisition. Ameren Missouri says that if the language is included, it should say "including the terms of any capital lease used in the financing."

RESPONSE: The change proposed by Dogwood is unnecessary. The commission will make no change in response to this comment.

COMMENT #30: Subsection (4)(D) requires an application to acquire assets to include "plans and specifications for the utility system." Dogwood suggests the reference to "utility system" is undefined and should be changed to "asset."

RESPONSE AND EXPLANATION OF CHANGE: The commission will make the change proposed by Dogwood.

COMMENT #31: Dogwood asks the commission to add a new subsection (4)(E) to require an application to acquire assets to include evidence that the electric utility has used a competitive bidding process to evaluate other reasonable alternatives. Ameren Missouri opposes that proposal.

RESPONSE AND EXPLANATION OF CHANGE: The commission disagrees with Dogwood's proposal to create a new subsection to require submission of evidence that competitive bidding has been used. However, the commission will incorporate a new subsection

(6)(H) that addresses competitive bidding.

COMMENT #32: Section (5) describes what is to be filed as part of an application for a CCN to construct an asset. Dogwood asks the commission to include language to clarify that this section does not apply to applications for CCNs to construct electric or gas transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The commission disagrees with Dogwood's comment, but will clarify that the rule applies to applications for a line certificate under section 393.170.1, RSMo.

COMMENT #33: Dogwood suggests subsection (5)(B) be modified to require a list of shared easements be included along with information about other facilities that will be affected by the proposed construction.

RESPONSE: Dogwood's suggested revision is unnecessary. The commission will make no change in response to this comment.

COMMENT #34: Dogwood suggests subsection (5)(C) be modified to refer to "asset" in place of "electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant." Ameren Missouri makes the same suggestion.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the proposed change to this subsection.

COMMENT #35: Dogwood suggests subsection (5)(D) be modified to refer to "asset" in place of "electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant." Ameren Missouri makes the same suggestion. Empire suggests the entire subsection be deleted as unnecessary and unworkable.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of "asset" found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(D) in the final rule. See response to comment #47. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #36: Subsection (5)(E) directs the applicant for a CCN to submit "an indication" of certain information. Public Counsel and Ameren Missouri suggest "an indication" be changed to "a statement." Ameren Missouri suggests the subsection be modified to refer to "asset" in place of "electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant." Dogwood would simplify the subsection to require "A description of any common plant included in the construction project."

RESPONSE AND EXPLANATION OF CHANGE: The new definition of "asset" found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(E) in the final rule. See response to comment #48. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #37: Subsection (5)(F) directs the applicant for a CCN to submit its plans for financing the asset to be constructed. Dogwood suggests the reference to "electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant" be changed to "asset." Ameren Missouri suggests the phrase be changed to "project."

RESPONSE AND EXPLANATION OF CHANGE: The new definition of "asset" found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(F) in the final rule. See response to comment #49. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #38: Subsection (5)(G) directs non-incumbent electric providers that are applying for a CCN to submit an overview of their plans for operating and maintaining the proposed asset. Dogwood suggests the reference to "electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant" be changed to "asset." Ameren Missouri makes the same suggestion. Dogwood and Division of Energy also express concern about the phrase "non-incumbent electric provider," suggesting it could be better defined. Public Counsel suggests the requirement of the subsection should not be limited to non-incumbent electric providers, however that phrase is defined.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of "asset" found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(I) in the final rule. See response to comment #50. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #39: Subsection (5)(H) directs non-incumbent electric providers that are applying for a CCN to submit an overview of their plans for restoration of service after an unplanned outage. Dogwood suggests the reference to "electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant" be changed to "asset." Ameren Missouri makes the same suggestion. Dogwood and Division of Energy also express concern about the phrase "non-incumbent electric provider," suggesting it could be better defined. Public Counsel suggests the requirement of the subsection should not be limited to non-incumbent electric providers, however that phrase is defined.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of "asset" found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(J) in the final rule. See response to comment #51. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #40: Subsection (5)(I) would require an applicant for a CCN to submit evidence demonstrating that it used a non-discriminatory process to evaluate whether distributed energy resources, energy efficiency, or renewable energy resources would provide a reasonable alternative to the proposed construction. Dogwood and Division of Energy express concern about the phrase "non-incumbent electric provider," suggesting it could be better defined. Public Counsel suggests the reference to "electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant" be changed to "asset." Empire suggests this requirement should be incorporated into the requirements of subsection (2)(E), and Ameren Missouri argues the entire subsection should be removed from the rule as an unnecessary duplication of the commission's Integrated Resource Planning rules in Chapter 22.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of "asset" found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This subsection will be removed from the rule. A new subsection (5)(G) will be included in the final rule which will require only that the applicant provide a description of how the proposed asset relates to the utility's adopted preferred resource plan filed under the commission's Chapter 22 rules.

COMMENT #41: Subsection (5)(J) would require an applicant for a CCN to submit evidence demonstrating that it used a non-discriminatory competitive bidding process to evaluate whether purchased power or alternative energy supplies would be a reasonable alternative to the proposed construction. Dogwood expresses concern about the phrase "non-incumbent electric provider," suggesting it could be better defined. Dogwood also proposes some changes to the wording of the subsection. Empire suggests this requirement should be incorporated into the requirements of subsection (2)(E), Ameren Missouri and KCP&L/GMO argue the entire subsection should be removed

from the rule. Wind on the Wires supports the bidding requirement, and the Division of Energy does not oppose that requirement, but welcomes the economic benefits that result from construction in Missouri.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. The subsection requiring competitive bidding will be removed from the rule. See response to comment #53. Subsection (5)(H) in the final rule relates to competitive bidding, but requires only an overview of whether and how such bidding was used in the planning of the project.

COMMENT #42: Subsection (5)(K) would require an applicant for a CCN to submit evidence demonstrating that it utilized or will utilize a competitive bidding process for entering into contracts related to the construction project. Dogwood expresses concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Dogwood also suggests the reference to “electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant” be changed to “asset.” Ameren Missouri and KCP&L/GMO argue the entire subsection should be removed from the rule.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. The subsection requiring competitive bidding will be removed from the rule. See response to comment #53. Subsection (5)(H) in the final rule relates to competitive bidding, but requires only an overview of whether and how such bidding was used in the planning of the project.

COMMENT #43: Section (6) describes additional information to be filed as part of an application for a CCN to acquire or construct an electric transmission line. Dogwood would expand the requirements of the section to the acquisition or construction of a natural gas transmission line used to serve an electric generating asset. Ameren Missouri and Empire would limit application of the section to proposed construction projects, not acquisition of existing transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that including a separate section of the rule regarding applications to construct a transmission line is unnecessary. The relevant portions of section (6) will be incorporated into section (5) regarding applications for a line certificate under section 393.170.1, RSMo.

COMMENT #44: Ameren Missouri suggests subsections (6)(A)–(I) be removed from the rule as duplicative since a transmission line is also an asset covered under section (5).

RESPONSE AND EXPLANATION OF CHANGE: See response to comment #43.

COMMENT #45: Dogwood suggests subsection (6)(B) be modified to require a list of shared easements be included along with information about other facilities that will be affected by the proposed construction.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes this subsection is unnecessary and will remove it from the rule.

COMMENT #46: Dogwood suggests application of subsection (6)(C) not be limited to electric transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes this subsection is unnecessary and will remove it from the rule.

COMMENT #47: Dogwood suggests application of subsection (6)(D) not be limited to electric transmission lines. Empire argues

the rule should not require projected completion dates for the proposed construction.

RESPONSE AND EXPLANATION OF CHANGE: The commission will change the subsection to apply to “asset,” not just electric transmission lines. The requirement to describe projected completion dates is necessary and will not be deleted from the rule.

COMMENT #48: Subsection (6)(E) directs the applicant for a CCN to submit “an indication” of certain information. Dogwood would simplify the subsection to require “A description of any common plant included in the construction project.” Public Counsel asks what is a common electric transmission line?

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt Dogwood’s proposed simplification of the requirement.

COMMENT #49: Dogwood suggests application of subsection (6)(F) not be limited to electric transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt Dogwood’s suggestion and will change “electric transmission line” to “asset.”

COMMENT #50: Subsection (6)(G) directs non-incumbent electric providers that are applying for a CCN to submit an overview of their plans for operating and maintaining the proposed electric transmission line. Dogwood and Division of Energy express concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Public Counsel suggests the requirement of the subsection should not be limited to non-incumbent electric providers, however that phrase is defined. Dogwood also suggests application of the subsection not be limited to electric transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The application of the subsection will be expanded by changing “electric transmission line” to “asset.” The phrase “non-incumbent electric provider” has been removed from the rule.

COMMENT #51: Subsection (6)(H) directs non-incumbent electric providers that are applying for a CCN for an electric transmission line to submit an overview of their plans for restoration of service after an unplanned outage. Dogwood and Division of Energy express concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Dogwood also suggests application of the subsection not be limited to electric transmission lines. Public Counsel suggests the requirement of the subsection should not be limited to non-incumbent electric providers, however that phrase is defined.

RESPONSE AND EXPLANATION OF CHANGE: The application of the subsection will be expanded by changing “electric transmission line” to “asset.” The phrase “non-incumbent electric provider” has been removed from the rule. This subsection is (5)(I) in the final rule.

COMMENT #52: Subsection (6)(I) would require an applicant for a CCN for an electric transmission line to submit evidence demonstrating that it utilized or will utilize a competitive bidding process for entering into contracts related to the construction project. Dogwood expresses concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Dogwood also suggests application of the subsection not be limited to electric transmission lines. Empire suggests this requirement should be incorporated into the requirements of subsection (2)(E), Ameren Missouri and KCP&L/GMO oppose the bidding requirement and argue the entire subsection should be removed from the rule.

RESPONSE AND EXPLANATION OF CHANGE: The subsection requiring competitive bidding has been removed from the rule. New subsection (5)(H) relates to competitive bidding, but requires only an overview of whether and how such bidding was used in the planning of the project.

COMMENT #53: Subsection (6)(J) and paragraphs (6)(J)1.-4. describe the notice that an applicant for a CCN to acquire or construct an electric transmission line is to provide to residents along the route of the transmission line. The Division of Energy indicated its support for the rule as proposed. Dogwood generally supports the notice requirement, but proposes modified language that would expand the notice requirement to include natural gas transmission pipelines as well as electric transmission lines. Ameren Missouri opposes that expansion of the rule. Public Counsel would also expand the rule to require notice regarding natural gas transmission lines, and would add a notice requirement when a new generating plant or associated substation is proposed. Ameren Missouri supports the concept behind the notice requirement, but would modify the rule's language to make it clear that the rule does not give landowners an enforceable right to receive actual notice.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes the notice requirements are appropriate as proposed and will not modify the rule except to clarify that it applies to "transmission" substation locations as well as electric transmission line routes.

COMMENT #54: KCP&L/GMO suggests the reference to "notice" in subsection (6)(J) and in paragraph (6)(J)1. be expanded to "notice of the application."

RESPONSE AND EXPLANATION OF CHANGE: The commission believes the notice requirements are appropriate as proposed and will not modify the rule except to clarify that it applies to "transmission" substation locations as well as electric transmission line routes.

COMMENT #55: KCP&L/GMO and Dogwood propose to change "any letter" in paragraph (6)(J)2. to "notice" or "notice of the application."

RESPONSE AND EXPLANATION OF CHANGE: The commission believes the notice requirements are appropriate as proposed, but the term "letter" in this paragraph is potentially confusing and will be changed to "notice of the application."

COMMENT #56: KCP&L/GMO suggests paragraph (6)(J)2. be revised to change all references to "utility" to "applicant."

RESPONSE: The proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #57: KCP&L/GMO suggests all references to "persons" in paragraphs (6)(J)3. and 4. be changed to "landowners."

RESPONSE: The proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #58: KCP&L/GMO suggests paragraph (6)(J)3. be clarified to distinguish the public meeting required by the rule from a public hearing conducted by the commission.

RESPONSE: The proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #59: Wind on the Wires proposes the commission create a new section that would explicitly afford an applicant the ability to request expedited treatment for its application.

RESPONSE: An applicant may request expedited treatment under the commission's general rules of procedure and it is not necessary to include a reminder of such procedures in this rule. The commission will make no changes in response to this comment.

COMMENT #60: The Division of Energy and Public Counsel pointed out that the proposed rule should be revised to incorporate the provisions of SB-564, which will go into effect before the rule will become effective.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (1)(D), the provision that excludes certain assets from the definition of construction for which a CCN is required, has been modified to incorporate the provisions of SB-564, including the exemption of pro-

jects with a capacity of one (1) megawatt or less and the construction of utility-owned solar facilities.

COMMENT #61: Ameren Missouri suggests a new section to require the applicant to file additional information where a different legal entity will own the asset during construction before transferring it to the utility when construction is completed.

RESPONSE: The proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #62: Ameren Missouri expressed concern that what it described as an expansion of the authority under the statute to require a CCN where none has been required in the past would call into question the legitimacy of existing electric assets that do not have a CCN.

RESPONSE AND EXPLANATION OF CHANGE: The commission does not intend for this rule to impose any additional requirements on existing assets. A statement to that effect has been added to section (7).

COMMENT #63: Ameren Missouri challenges the accuracy of the private cost determination that the proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

RESPONSE AND EXPLANATION OF CHANGE: The commission has made many modifications in this rule that will have the effect of reducing the regulatory costs that would have been imposed by the rule as proposed. The commission has reassessed the cost of the final rule and a revised private cost fiscal note has been prepared and is attached to this final order of rulemaking.

4 CSR 240-20.045 Electric Utility Applications for Certificates of Convenience and Necessity

PURPOSE: This proposed rule outlines the requirements for applications to the commission, pursuant to section 393.170.1 and 393.170.2, RSMo, requesting that the commission grant a certificate of convenience and necessity to an electric utility for a service area or to operate or construct an electric generating plant, an electric transmission line, or a gas transmission line that facilitates the operation of an electric generating plant.

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

(A) Asset means:

1. An electric generating plant, or a gas transmission line that facilitates the operation of an electric generating plant, that is expected to serve Missouri customers and be included in the rate base used to set their retail rates regardless of whether the item(s) to be constructed or operated is located inside or outside the electric utility's certificated service area or inside or outside Missouri; or

2. Transmission and distribution plant located outside the electric utility's service territory, but within Missouri;

(B) Construction means:

1. Construction of new asset(s); or

2. The improvement, retrofit, or rebuild of an asset that will result in a ten percent (10%) increase in rate base as established in the electric utility's most recent rate case;

(C) Construction does not include:

1. The construction of an energy generation unit that has a capacity of one (1) megawatt or less; or

2. The construction of utility-owned solar facilities as required under section 393.1665, RSMo;

3. Periodic, routine, or preventative maintenance; or

4. Replacement of equipment or devices with the same or substantially similar items due to failure or near term projected failure as long as the replacements are intended to restore the asset to an operational state at or near a recently rated capacity level.

(2) Certificate of convenience and necessity.

(A) An electric utility must obtain a certificate of convenience and necessity prior to—

1. Providing electric service to retail customers in a service area pursuant to section 393.170.2, RSMo;

2. Construction of an asset pursuant to section 393.170.1, RSMo; or

3. Operation of an asset pursuant to section 393.170.2, RSMo.

(B) The commission may, by its order, impose upon the issuance of a certificate of convenience and necessity such condition or conditions as it may deem reasonable and necessary.

(C) In determining whether to grant a certificate of convenience and necessity, the commission may, by its order, make a determination on the prudence of the decision to operate or construct an asset subject to the commission's subsequent review of costs and applicable timelines.

(D) An electric utility must exercise the authority granted within two (2) years from the grant thereof.

(3) In addition to the general requirements of 4 CSR 240-2.060(1), the following additional general requirements apply to all applications for a certificate of convenience and necessity, pursuant to sections 393.170.1 and .2, RSMo:

(A) The application shall include facts showing that granting the application is necessary or convenient for the public service;

(B) If an asset to be operated or constructed is outside Missouri, the application shall include plans for allocating costs, other than regional transmission organization/independent system operator cost sharing, to the applicable jurisdiction; and

(C) If any of the items required under this rule are unavailable at the time the application is filed, the unavailable items may be filed prior to the granting of authority by the commission, or the commission may grant the certificate subject to the condition that the unavailable items be filed before authority under the certificate is exercised.

(4) If the application is for authorization to provide electric service to retail customers in a service area for the electric utility under section 393.170.2, RSMo, the application shall also include:

(A) A list of those entities providing regulated or nonregulated retail electric service in all or any part of the service area proposed, including a map that identifies where each entity is providing retail electric service within the area proposed;

(B) If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners, in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

(C) The legal description of the service area to be certificated;

(D) A plat of the proposed service area drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the state's Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

(E) A feasibility study containing plans and specifications for the utility system, plans for financing, proposed rates and charges, and an estimate of the number of customers, revenues, and expenses during the first three (3) years of operations.

(5) If the application is for authorization to operate assets under section 393.170.2, RSMo, the application shall also include:

(A) A description of the asset(s) to be operated;

(B) The value of the asset(s) to be operated;

(C) The purchase price and plans for financing the operation; and

(D) Plans and specifications for the asset, including as-built drawings.

(6) If the application is for authorization to construct an asset under section 393.170.1, RSMo, the application shall also include:

(A) A description of the proposed route or site of construction;

(B) A list of all electric, gas, and telephone conduit, wires, cables,

and lines of regulated and nonregulated utilities, railroad tracks, and each underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross;

(C) A description of the plans, specifications, and estimated costs for the complete scope of the construction project that also clearly identifies what will be the operational features of the asset once it is fully operational and used for service;

(D) The projected beginning of construction date and the anticipated fully operational and used for service date of the asset;

(E) A description of any common plant to be included in the construction project;

(F) Plans for financing the construction of the asset;

(G) A description of how the proposed asset relates to the electric utility's adopted preferred plan under 4 CSR 240-22;

(H) An overview of the electric utility's plan for this project regarding competitive bidding, although competitive bidding is not required, for the design, engineering, procurement, construction management, and construction of the asset;

(I) An overview of plans for operating and maintaining an asset;

(J) An overview of plans for restoration of safe and adequate service after significant, unplanned/forced outages of an asset; and

(K) An affidavit or other verified certification of compliance with the following notice requirements to landowners directly affected by electric transmission line routes or transmission substation locations proposed by the application. The proof of compliance shall include a list of all directly affected landowners to whom notice was sent.

1. Applicant shall provide notice of its application to the owners of land, or their designee, as stated in the records of the county assessor's office, on a date not more than sixty (60) days prior to the date the notice is sent, who would be directly affected by the requested certificate, including the preferred route or location, as applicable, and any known alternative route or location of the proposed facilities. For purposes of this notice, land is directly affected if a permanent easement or other permanent property interest would be obtained over all or any portion of the land or if the land contains a habitable structure that would be within three hundred (300) feet of the centerline of an electric transmission line.

2. Any letter sent by applicant as notice of the application shall be on its representative's letterhead or on the letterhead of the utility, and it shall clearly set forth—

A. The identity, address, and telephone number of the utility representative;

B. The identity of the utility attempting to acquire the certificate;

C. The general purpose of the proposed project;

D. The type of facility to be constructed; and

E. The contact information of the Public Service Commission and Office of the Public Counsel.

3. If twenty-five (25) or more persons in a county would be entitled to receive notice of the application, applicant shall hold at least one (1) public meeting in that county. The meeting shall be held in a building open to the public and sufficient in size to accommodate the number of persons in the county entitled to receive notice of the application. Additionally—

A. All persons entitled to notice of the application shall be afforded a reasonable amount of time to pose questions or to state their concerns;

B. To the extent reasonably practicable, the public meeting shall be held at a time that allows affected landowners an opportunity to attend; and

C. Notice of the public meeting shall be sent to any persons entitled to receive notice of the application.

4. If applicant, after filing proof of compliance, becomes aware of a person entitled to receive notice of the application to whom applicant did not send such notice, applicant shall, within twenty (20) days, provide notice to that person by certified mail, return receipt requested, containing all the required information. Applicant shall also file a supplemental proof of compliance regarding the additional notice.

(7) Provisions of this rule do not create any new requirements for or affect assets, improvements, rebuilds, or retrofits already in rate base as of the effective date of this rule. Provisions of this rule may be waived by the commission for good cause shown.

REVISED PRIVATE COST: The cost to the department may range from zero to one hundred thousand dollars (\$0-\$100,000) versus the less than five hundred dollars (\$500), which was submitted in the original estimate.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Department of Economic Development
Division Title: 240-Public Service Commission
Chapter Title: Chapter 20 – Electric Utilities**

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|-------------------------------|--|
| Rule Number and Title: | 4 CSR 240-20.045 Electric Utility Applications for Certificates of Convenience and Necessity |
| Type of Rulemaking: | Final Order of Rulemaking |

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|---|--|--|
| 4 | Investor Owned Electric Utilities | \$0-\$100,000 |

III. WORKSHEET

Two affiliated investor-owned electric utilities (IOUs) indicated the requirement to obtain a CCN for an asset located outside Missouri would cause them to incur significant litigation expense. The fiscal impact of this provision is estimated between \$0 and \$100,000. See Section IV for assumptions.

They also indicated the requirement to get a CCN for “the improvement, retrofit or rebuild” of an asset will cause them to incur significant litigation expense. This requirement was modified by adding a limitation that a CCN only needs to be obtained when the improvement, retrofit or rebuild will result in a 10 percent increase in rate base as established in the electric utility’s most recent rate case. With this limitation, only one project over the past several years would have required a CCN. Therefore, with the limitation, the fiscal impact of this provision is deemed minimal.

IV. ASSUMPTIONS

The estimated life of the rule is 3 years.

Based on the number of instances over the past 3 years when a CCN would have been required had the provisions of this final order of rulemaking been effective at the time of the transaction, it is assumed that one new CCN, not already required by Commission rule provisions, will be required during the estimated life of the rule. Since the extent and the nature of litigation associated with that case is unknown until it is contested, it was assumed that the CCN case would result in an additional cost of \$0 to \$100,000 as a result of the final order of rulemaking.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 120—New Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed rescission as follows:

**4 CSR 240-120.070 Manufacturers and Dealers Reports
is withdrawn.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1010-1011). This proposed rescission is withdrawn.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission's staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that after further review it recommends the rule not be rescinded because part of the rule is required to comply with certain federal requirements for the commission to retain its State Administrative Agency status.

RESPONSE: The commission will withdraw the proposed rescission so the rule will remain in effect.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 120—New Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-120.080 Commission Reports is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1011). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rule on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission's staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule restates a federal requirement imposed on the commission. It does not need to be included in the rule and staff supports its rescission.

RESPONSE: The commission will rescind the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.010 Definitions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1011). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission's staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.

RESPONSE: The commission will rescind the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

**4 CSR 240-121.020 Administration and Enforcement
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1011-1012). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission's staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.

RESPONSE: The commission will rescind the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under

section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.030 Seals is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1012). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.

RESPONSE: The commission will rescind the rule.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.040 Inspection of Dealer Books, Records, Inventory and Premises is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1012). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.

RESPONSE: The commission will rescind the rule.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.050 Inspection of Preowned Manufactured Homes Rented, Leased or Sold or Offered for Rent, Lease or Sale by Persons Other Than Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1012–1013). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.

RESPONSE: The commission will rescind the rule.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.060 Complaints and Review of Director Actions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1013). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.

RESPONSE: The commission will rescind the rule.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.170 Criteria for Good Moral Character for Registration of Manufactured Home Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1013–1014). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.

RESPONSE: The commission will rescind the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.180 Monthly Report Requirement for Registered Manufactured Home Dealers is **rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1014). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.

RESPONSE: The commission will rescind the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 124—Manufactured Home Tie-Down Systems**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed rescission as follows:

4 CSR 240-124.045 Anchoring Standards is **withdrawn**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1014). This proposed rescission is withdrawn.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that after further review it finds that only the definitions portion of the rule, found in section (1), duplicates the requirements of federal regulations. Staff suggests it might be appropriate to revisit this rule in a future rulemaking to amend it, but recommends it not be rescinded at this time.

RESPONSE: The commission agrees it would not be appropriate to rescind only the definitions section of the rule while leaving the substantive portions in effect. Instead, the commission will withdraw the proposed rescission.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 340—Division of Energy
Chapter 6—Missouri Propane Education and Research
Program**

ORDER OF RULEMAKING

By the authority vested in the Division of Energy under sections 414.500–414.590, RSMo 2016 and RSMo Supp. 2018, the division amends a rule as follows:

4 CSR 340-6.010 Definitions and General Provisions—Membership is **amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1142–1143). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 1—Organization**

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under sections 213.020 and 536.023, RSMo 2016, the commission amends a rule as follows:

8 CSR 60-1.010 General Organization is **amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1143–1144). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 2—Procedural Regulations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under sections 213.030, 213.077, and 213.085, RSMo 2016, and sections 213.075 and 213.111, RSMo Supp. 2017, the commission amends a rule as follows:

8 CSR 60-2.025 Complaint, Investigation, and Conciliation Processes **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1144). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 2—Procedural Regulations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, and section 213.075, RSMo Supp. 2017, the commission amends a rule as follows:

8 CSR 60-2.045 Parties at Hearing **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1144-1145). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 2—Procedural Regulations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, and section 213.075, RSMo Supp. 2017, the commission rescinds a rule as follows:

8 CSR 60-2.085 Disclosure of Information in Case Files at Hearing Stage **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1145). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective

thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 2—Procedural Regulations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, and section 213.075, RSMo Supp. 2017, the commission amends a rule as follows:

8 CSR 60-2.090 Prehearing Conferences **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1145). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 3—Guidelines and Interpretations of
Employment Anti-Discrimination Laws**

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, the commission amends a rule as follows:

8 CSR 60-3.010 Preservation of Records and Posting of Posters and Interpretations **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1145-1146). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 3—Guidelines and Interpretations of
Employment Anti-Discrimination Laws**

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, the commission rescinds a rule as follows:

8 CSR 60-3.030 Employment Testing **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1146). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 3—Guidelines and Interpretations of Employment Anti-Discrimination Laws

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, the commission amends a rule as follows:

8 CSR 60-3.060 Handicap Discrimination in Employment is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1146-1147). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 19—Electronics Scrap Management

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.1101, RSMo 2016, the commission hereby amends a rule as follows:

10 CSR 25-19.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 856-859). One (1) change was made to the text of this proposed amendment; those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held June 20, 2018, and the public comment period ended June 27, 2018. At the public hearing the Department of Natural Resources testified that the proposed amendment would remove portions of the rule that are outdated, no longer needed, or that duplicate statutory language. There was no other testimony at the hearing. The department received one (1) comment during the public comment period.

COMMENT #1: A department employee commented that the remaining portion of the rule uses the term “covered equipment” and the definition for that term would be removed with this proposed amendment.

RESPONSE AND EXPLANATION OF CHANGE: Because the statute defines “computer materials” and “equipment” and provides

exceptions to coverage, the commission does not believe regulatory definitions are necessary and no change was made to address this comment.

After the public comment period, staff learned that both standards referenced in the current rule are outdated, and have been absorbed into a newer standard published by Sustainable Electronics Recycling International (SERI). For this reason, the commission will adopt changes to the proposal to eliminate the outdated references and to update and add the current SERI standards in the rule.

10 CSR 25-19.010 Electronics Scrap Management

(1) The department adopts, as standards for recycling or reuse of covered equipment under this rule, the standards in R2:2013, “The Responsible Recycling (“R2”) Standard for Electronics Recyclers,” dated September 1, 2014; the supporting document R2:2013 “R2 Code of Practices: R2 Certification Process Requirements” dated July 1, 2013, and the R2:2013 “Formal Interpretation #1.0” with an effective date of February 1, 2017, all issued by the Sustainable Electronics Recycling International (SERI) Board of Directors, PO Box 721, Hastings, MN, 55033. Each of these standards is hereby incorporated by reference without any later amendments or additions. The adopted standards apply to covered equipment used by an individual primarily for personal or home business use and returned to the manufacturer by a consumer or collected by a manufacturer in this state and do not impose any obligation on an owner or operator of a solid waste facility.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 3—Administrative Penalties

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-3.010 Administrative Penalty Assessment is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 883-884). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-6.020 Closure Plan and Inspection-Maintenance Plan—General Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 884-885). No changes have been made in the text of the

proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 8—Technical Guidelines

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-8.010 General is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 885). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 8—Technical Guidelines

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-8.030 Metallic Minerals Waste Management Structures is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 885–886). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 8—Technical Guidelines

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-8.040 Reclamation-Reuse is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018

(43 MoReg 886–887). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 3—Historic Preservation

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-3.010 Definitions—Revolving Fund is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 887). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on June 20, 2018 and the public comment period ended on June 27, 2018. At the public hearing, the Department's State Historic Preservation Office staff explained the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 3—Historic Preservation

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-3.020 Acquisition of Historic Property is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 887–888). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on June 20, 2018 and the public comment period ended on June 27, 2018. At the public hearing, the Department's State Historic Preservation Office staff explained the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 3—Historic Preservation

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural

Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-3.030 Procedures for Making Loans **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2018 (43 MoReg 888). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on June 20, 2018 and the public comment period ended on June 27, 2018. At the public hearing, the Department's State Historic Preservation Office staff explained the proposed amendment. No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 30—Child Support Enforcement
Chapter 2—Performance Measures

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Family Support Division under sections 454.500 and 660.017, RSMo 2016, the division rescinds a rule as follows:

13 CSR 30-2.030 Standard Procedures for Handling Cash Receipts in Circuit Clerks' Offices Under Contract With the Missouri Division of Child Support Enforcement for the Provision of IV-D Services **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1168). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 30—Child Support Enforcement
Chapter 2—Performance Measures

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Family Support Division under sections 454.500 and 660.017, RSMo 2016, the division rescinds a rule as follows:

13 CSR 30-2.040 Standard Procedures for Handling Cash Receipts in Prosecuting Attorneys' Offices Under Contract With the Missouri Division of Child Support Enforcement for the Provision of IV-D Services **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1168-1169). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 7—Family Healthcare

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Family Support Division, under sections 207.022, 208.991, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 40-7.015 Application Procedure for Family MO HealthNet Programs and the Children's Health Insurance Program (CHIP) **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1169). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division under sections 208.153, 208.201, and 660.017, RSMo 2016, the division rescinds a rule as follows:

13 CSR 70-3.040 Duty of Medicaid Participating Hospitals and Other Vendors to Assist in Recovering Third-Party Payments **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1169-1170). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.153, 208.201, and 660.017, RSMo 2016, and section 208.152, RSMo Supp. 2018, the division amends a rule as follows:

13 CSR 70-20.045 Thirty-One Day Supply Maximum Restriction on Pharmacy Services Reimbursed by the MO HealthNet Division **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018

(43 MoReg 1176). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.153, 208.201, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 70-20.050 Return of Drugs is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1176–1177). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.036 and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.030 Special or Unique Service Needs is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1177). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.036 and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.040 Classification Criteria for Placement into Division of Youth Services (DYS) Programs is amended.

A notice of proposed rulemaking containing the text of the proposed

amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1177–1178). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.021, 219.036, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.050 Transfers Between DYS Residential and/or Community Based Programs is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1178–1179). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.036 and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.080 Runaway and Absconding Youth is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1179). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.036, 219.051, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.100 Grievance Procedures for Committed Youth In Residential Facilities is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1179–1180). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.036 and 660.017, RSMo 2016, the division amends a rule as follows:

**13 CSR 110-2.130 Release of Youth from DYS Facilities
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1180–1181). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.