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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	*Code of State Regulations*	Agency Division	General area regulated	Specific area regulated

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

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

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

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

Code and *Register* on the Internet

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

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

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

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

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

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

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

PROPOSED AMENDMENT

4 CSR 340-2.010 Definitions. The division is adding new sections (4) and (16), renumbering as needed, and amending section (34).

PURPOSE: This amendment adds the definition of board and energy-related competency, renumbers the sections, and modifies technical assistant report.

(4) Board means the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects.

*[(4)]***(5)** Authorized official means an individual authorized to obligate an organization or entity.

*[(5)]***(6)** Borrower means a recipient of a loan or other financial assistance program funds subsequent to the execution of a loan or financial assistance documents with the department or other applicable parties, provided that a building owned by the state or an agency thereof, other than a state college or state university, shall not be eligible for loans or financial assistance pursuant to sections 640.651 to 640.686, RSMo.

*[(6)]***(7)** Building means—
(A) An existing structure; or
(B) Proposed new construction; or
(C) Any applicant-owned, group of closely situated structural units that are centrally metered or served by a central utility plant; or
(D) An eligible portion of any of these that includes an energy-using system.

*[(7)]***(8)** Business, industrial, and commercial entities mean corporations or other entities registered with the secretary of state to produce, manufacture, sell, or distribute goods or commodities; or to perform or deliver services.

*[(8)]***(9)** Department means the Department of Natural Resources.

*[(9)]***(10)** Director means the director of the Department of Natural Resources.

*[(10)]***(11)** Division means the Department of Natural Resources' Division of Energy.

*[(11)]***(12)** Energy conservation measure (or ECM) means an installation in a building or replacement or modification to an energy-using system that is primarily intended to maintain or reduce energy consumption and reduce energy costs or allow the use of an alternative or renewable energy source.

*[(12)]***(13)** Energy conservation project (or project) means the design, acquisition, installation, operation, and commissioning of one (1) or more energy conservation measures.

*[(13)]***(14)** Energy-using sector or entity means an identified portion of the state's economy which serves to provide structure to the allocation of loan funds.

*[(14)]***(15)** Energy-using system (or system) means energy-using equipment or a group of interacting mechanical or electrical components that use energy, such as heating, ventilation, air conditioning, manufacturing, water treatment, or lighting systems.

(16) Energy-related competency means skill sets which enable an architect or professional engineer to prepare a Technical Assistance Report (TAR) in a manner consistent with industry standards and to encourage reasonably accurate estimates of energy savings. Competency may be demonstrated by, but is not limited to, achievement of industry-recognized certifications in the energy field, demonstrated knowledge of building science or energy analysis, or a minimum of one (1) year of experience in performing energy analysis.

*[(15)]***(17)** Energy cost saving (or savings) means the value, in terms of dollars, that has accrued or is estimated to accrue from energy bill reductions or avoided costs due to an energy conservation project.

*[(16)]***(18)** Estimated simple payback means the estimated cost of a project divided by the estimated annual energy cost savings.

*[(17)]***(19)** Event of default means an activity or inactivity that results in the borrower's failure to discharge a duty as prescribed in the loan agreement or other documents furnished in support of the loan agreement.

*[(18)]***(20)** Facility means a building that contains or interacts with energy-using systems, as determined by the department.

*[(19)]***(21)** Financial assistance means public or private funds reasonably available for loan or grant to a sector or entity desiring to implement an energy conservation project, thereby facilitating the mission of the division.

*[(20)]***(22)** Fund means the "Energy Set-Aside Program Fund" established in section 640.665, RSMo.

*[(21)]***(23)** Hospital means a facility as defined in section 197.020(2), RSMo, including any medical treatment or related facility controlled by a hospital board.

*[(22)]***(24)** Hospital board means the board of directors having general control of the property and affairs of the hospital facility.

*[(23)]***(25)** Incremental cost means the additional cost, as approved by the department, of new construction due to the addition, design, and installation of higher efficiency or renewable energy options compared to acceptable minimum efficiency, consistent with regional minimum design practices, traditional design practices, or local codes where applicable.

*[(24)]***(26)** In-kind labor means the labor costs of an ECM that are performed by the borrower's employees and that may include wages, benefits, and other direct overhead costs as approved by the department.

*[(25)]***(27)** Interest means accrued interest on loans charged by the department.

*[(26)]***(28)** Loan agreement means a document executed by the applicant(s), the department, and other funding source(s), if applicable, that details all terms and requirements under which the loan will be made and repaid.

*[(27)]***(29)** Local government means any county, city, town, or village; or any hospital district as such districts are defined in section 206.010, RSMo; or any sewer district as such districts are defined in section 249.010, RSMo; or any water supply districts as such districts are defined in section 247.010, RSMo; or any ambulance district as such districts are defined in section 190.010, RSMo; or any subdistrict of a zoological park and museum districts as such districts are defined in section 184.352, RSMo.

*[(28)]***(30)** Loan amount means the amount, stated in dollars in the loan agreement, determined by the department as eligible costs plus interest accrued that shall be repaid by the borrower.

*[(29)]***(31)** Not-for-profit organization means any corporation, trust, association, cooperative, or other organization which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; is not organized primarily for profit; uses its net proceeds to maintain, improve, and/or expand its operations; is tax exempt under the Internal Revenue Code; and is registered and in good standing with the secretary of state.

*[(30)]***(32)** Payback score means a numeric value derived from the review of an application, calculated as prescribed by the department, that may include, but shall not be limited to, an estimated simple payback or life-cycle costing method of economic analysis and used for purposes of ranking applications for the selection of loan and financial assistance recipients within the balance of program funds available.

*[(31)]***(33)** Project cost means all costs determined by the department to be directly related to the implementation of an energy conservation project, including initial installation in a new building, that shall include the incremental cost of higher-efficiency energy-using systems or renewable energy options, either of which may be compared to a predicted baseline of energy consumption.

*[(32)]***(34)** Repayment period means the period, up to a maximum number of years as determined by the department for each loan cycle, required to repay a loan of financial assistance, unless otherwise negotiated as required under section 640.660, RSMo.

*[(33)]***(35)** School is defined in section 640.651, RSMo.

*[(34)]***(36)** Technical Assistance Report (or TAR) means a specialized engineering report*[, subject to approval by the department,]* that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one (1) or more energy conservation *[or renewable energy]* measures. *[The TAR need not be prepared by a professional engineer, if the department determines that the adequate performance of the TAR analysis for any project does not require engineering education, training, and experience.]*

*AUTHORITY: sections 640.651–640.686, RSMo [2000] **2016** and RSMo Supp. [2013] **2017**. This rule originally filed as 10 CSR 140-2.010. Original rule filed April 2, 1988, effective Sept. 1, 1988. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 27, 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 Department of Economic Development – Division of Energy, 301 West High Street, PO Box 1766, 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 340—Division of Energy
Chapter 2—Energy Loan Program

PROPOSED AMENDMENT

4 CSR 340-2.020 General Provisions. The division is adding new paragraphs (4)(A)1., (4)(A)2., and (4)(A)3. and amending subsection (4)(B).

PURPOSE: This amendment modifies application requirements for technical assistant report.

(4) Application.

(A) Application for loan funds may be submitted for the purpose of implementing an energy conservation project. A Technical Assistance

Report (TAR) must accompany the application or be on file with the department. The application and TAR shall be in a form required by the department which the department may revise from time-to-time. A copy of the application form and TAR format may be obtained from the Division of Energy's Energy Loan Program, Program Clerk, PO Box 1766, Jefferson City, MO 65102.

1. The TAR must be prepared by an architect or professional engineer with demonstrated energy-related competency when identifying and specifying the project's likely energy savings and related energy cost savings requires education, training, and experience in a manner consistent with sections 327.091 and 327.181, RSMo. Examples of such instances include complex energy projects, such as variable air volume, constant air volume, chillers, water towers, multizone cooling systems, building automation systems, air handling distribution systems, or bubble diffusers for a water treatment facility.

2. The TAR does not need to be prepared by an architect or professional engineer for projects where the energy savings and related energy cost savings can be determined with sufficient inputs on the loan application worksheets or for simple energy projects. Examples may include lighting upgrades, boiler upgrades, water heater upgrades, window replacements, insulation, photovoltaic solar systems, motor upgrades, or appliance replacements for an entire building.

3. Division of Energy may seek guidance from the board in determining whether identifying and specifying the project's likely energy savings and related energy cost savings requires architectural or professional engineering education, training, and experience.

(B) Each application must be completed, signed by an authorized official**, and in accordance with 327.411, RSMo, if required**, dated and accompanied by designated information requested by the department to determine the feasibility of the project and the financial risk of the proposed loan transaction.

*AUTHORITY: sections 640.651–640.686, RSMo [2000] **2016** and RSMo Supp. [2013] **2017**. This rule originally filed as 10 CSR 140-2.020. Original rule filed July 6, 1998, effective Feb. 28, 1999. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 27, 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 Department of Economic Development – Division of Energy, 301 West High Street, PO Box 1766, 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 40—Licensing Rules
Chapter 1—Definitions and Procedures

PROPOSED RESCISSION

9 CSR 40-1.118 Licensing Advisory Board. This rule established a licensing advisory board to advise the department regarding licensing policies and administrative rules.

PURPOSE: This rule is being rescinded as unnecessary. The Department of Mental Health has not convened a licensure advisory board for more than two (2) decades.

*AUTHORITY: sections 630.050 and 630.705, RSMo 1994. Original rule filed Aug. 4, 1987, effective Jan. 15, 1988. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission 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 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 4—Financial Procedures

PROPOSED RESCISSION

9 CSR 45-4.010 Residential Rate Setting. This rule prescribed procedures for establishing per-diem base rates for certain waiver and nonwaiver residential providers supporting individuals with developmental disabilities under the department's community placement program.

PURPOSE: This rule is being rescinded as unnecessary. The rule is obsolete and in conflict with the residential rate methodology approved by the Center for Medicare and Medicaid Services under the authority of the Missouri Home and Community-Based Comprehensive Waiver for Individuals with Developmental Disabilities.

AUTHORITY: section 630.655, RSMo 1994. This rule was previously filed as 9 CSR 10-5.170. Original rule filed Dec. 11, 1989, effective June 15, 1990. Amended: Filed May 25, 1995, effective Dec. 30, 1995. Rescinded: Filed March 20, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission 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 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 5—Standards for Community-Based Services

PROPOSED AMENDMENT

9 CSR 45-5.105 Definitions for Fire Safety Rules. The division is amending the purpose and sections (1) and (3).

PURPOSE: This amendment changes the name of the division to comply with House Bill 555 and House Bill 648 passed by the 95th Missouri General Assembly which removed the term "mental retardation" from Missouri statutes, adds a definition for non-combustible materials, and adds the Department of Public Safety, Division of Fire Safety, the state authority for inspections of facilities certified by the Department of Mental Health.

(1) The following terms shall mean:

(D) Department of Public Safety, Division of Fire Safety is the state agency to which the department delegates its authority for fire safety inspections of on-site day habilitation programs and waiver group homes subject to rules promulgated under 9 CSR 45 Chapter 5;

*[(D)]***(E)** Exit is the portion of a means of egress that is separated from all other areas of the building or structure by construction or equipment required to provide a protected way of travel to the exit discharge. Exits include exterior exit doors, exit passageways, horizontal exits, separated exit stairs, and separated exit ramps;

*[(E)]***(F)** Exit access is the portion of a means of egress that leads to an exit;

*[(F)]***(G)** Exit discharge is the portion of a means of egress between the termination of an exit and a public way;

*[(G)]***(H)** Fire barrier is a structural element, either vertical or horizontal, such as a wall or floor assembly that is designed and constructed with a specified fire resistance rating to limit the spread of fire and restrict the movement of smoke. Such barriers may have protected openings;

*[(H)]***(I)** Fire door is a combination of the fire door, frame, hardware and other accessories which together provide a specific degree of fire protection to the opening;

*[(I)]***(J)** Fire resistance rating is the length of time in minutes or hours that materials or structural elements can withstand fire exposure;

*[(J)]***(K)** Flame resistant material is the property of material or their structural elements that prevents or retards the passage of excessive heat, hot gases, or flames under the conditions in which they are used;

*[(K)]***(L)** Flame retardant is a chemical applied to material or other substance that is designed to retard ignition or the spread of fire;

*[(L)]***(M)** Home type range is a typical home type cooking stove;

*[(M)]***(N)** Interior finish includes the interior wall and ceiling finish, and interior floor finish;

*[(N)]***(O)** Level exit discharge is a horizontal plane that is located from the point at which an exit terminates and the exit discharge begins. The horizontal plane shall not vary more than two inches (2") in rise or fall;

*[(O)]***(P)** Level is the portion of a building included between the upper surface of a floor and the ceiling above it, or any upper surface of a floor and the ceiling above it that is separated by more than five (5) steps on a stairway;

*[(P)]***(Q)** Means of egress is a continuous and unobstructed way of travel from any point in a building or structure to a public way. A means of egress consists of three (3) distinct parts: the exit access, the exit, and the exit discharge;

*[(Q)]***(R)** Means of escape is a way out of a residential unit that does not conform to the strict definition of means of egress but does meet the intent of the definition by providing an alternative way out of a building;

*[(R)]***(S)** Mixed occupancy is when a facility is located in the same building or structure as another occupancy. This may include a business or place of assembly;

(T) Non-combustible material is a material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Examples of such materials include steel, concrete, and masonry.

*[(S)]***(U)** Public way is a street, alley, or other similar parcel of land essentially open to the outside air that is deeded, dedicated, or otherwise permanently appropriated to the public for public use and having a clear width and height of not less than ten feet (10');

*[(T)]***(V)** Remote exit or means of egress is when two (2) exits or two (2) exit access doors are required. Each exit or exit access door shall be placed at a distance apart equal to at least one-half (1/2) the length of the maximum overall diagonal dimension of the building or area to be used;

*[(U)]***(W)** Self-closing means to be equipped with an approved device that will ensure closing after having been opened;

*[(V)]***(X)** Smoke barrier is a structural element, either vertical or horizontal, such as a wall, floor, or ceiling assembly that is designed and constructed to restrict the movement of smoke. A smoke barrier may or may not have a fire resistance rating; *[and]*

*[(W)]***(Y)** Supervised automatic sprinkler system is a system with the initiating devices monitored by the fire alarm control panel. This may include switches used to monitor the position of valves, a low air pressure switch, a water flow switch, and a tamper switch*[.]*; **and**

(Z) Waiver Group Home- a residential facility owned and operated by a provider that provides Medicaid waiver services. A certified group home is similar in appearance to a single-family dwelling and provides care, supervision, and skills training in activities of daily living, home management, and community integration. Group homes do not provide shared living or individualized supported living services.

(3) Terms not defined in this rule shall be understood as defined in the fire safety code of the National Fire Protection Association **(NFPA)**.

*AUTHORITY: section 630.655, RSMo [2000] **2016**. Original rule filed Sept. 5, 2003, effective April 30, 2004. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment 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 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 5—Standards for Community-Based Services

PROPOSED AMENDMENT

9 CSR 45-5.110 Fire Safety for *[On-Site] Facility-based* Day Habilitation *and Employment Service Settings*. The division is amending the title statement, the purpose, and sections (1), (2), (3), (5), and (7).

PURPOSE: This amendment changes the name of the division to comply with House Bill 555 and House Bill 648 passed by the 95th Missouri General Assembly which removed the term "mental retardation" from Missouri statutes, updates the rule to be consistent with the Home and Community-based Waivers approved by the Centers for Medicare and Medicaid Services, updates the rule with current terminology in the field of developmental disabilities, and adds requirements recommended by the Department of Public Safety, Division of Fire Safety to ensure consistency with current best practice in fire safety.

*PURPOSE: This rule establishes fire safety requirements for [on-site] **facility-based** day habilitation **and employment service settings** funded through the Medicaid home and community-based waivers. The department delegates its authority for fire safety inspections under this rule to the Department of Public Safety, Division of Fire Safety.*

(1) General Requirements.

(A) People participating in *[on-site]* **facility-based** day habilitation *[shall be]* **and employment service settings are** restricted to using the floor of the building that is at ground level exit discharge. Exception: People participating in *[on-site]* **facility-based** day habilitation **and employment services** may use the floor below and above the level of exit discharge if the entire building is protected throughout with an approved automatic sprinkler system.

(B) No *[on-site]* **facility-based** day habilitation **and employment service** shall be located in the same building as a high hazard occupancy.

(C) The staff of the facility shall conduct at least one (1) fire drill at least once a month. In addition, a **natural** disaster drill will be conducted at least twice per year. The staff shall maintain a written record at the facility of the date, type of drill, time required to evacuate the building, whether the evacuation was completed, notation of any problems evacuating, and the number of occupants present during the drill.

(D) Unscheduled drills shall be held at the *[state fire marshal]* **Division of Fire Safety** inspector's discretion.

(F) Each fire drill shall evacuate all persons from the building and *[shall]* be conducted as follows:

1. Drills *[shall]* simulate an actual fire condition;

2. Occupants and staff members *[shall]* **do** not obtain clothing or personal effects after the alarm has sounded;

3. The occupants and staff members *[shall]* proceed to a predetermined point outside the building that is sufficiently remote to avoid fire danger, or to a predetermined point inside of the building to defend in place; and

4. Occupants and staff members *[shall]* remain in place until a recall is issued or until they are dismissed.

(I) The building numbers shall be plainly visible from the street in case of emergency**: at least four (4) inches in height and contrasting color with the building**.

(L) *[No f]***F**resh-cut Christmas trees shall **not** be used, unless they are treated with a flame resistant material*[.]* **and** *[D]***d**ocumentation of the treatment *[shall be]* **is** on file at the facility and available for review by the *[state fire marshal]* **Division of Fire Safety** inspector.

(M) The facility may use a cellular phone when all of the following conditions are met:

1. The phone must always have a signal;

2. The phone must always be charged;

3. The phone must be able to make and receive normal calls;

4. The phone must remain at the facility at all times; and

5. The emergency plan for the facility must address the use of cellular phones.

*[(M)]***(N)** The facility shall notify the nearest fire department that the facility is in operation and have required *[signed]* documentation **completed and signed by the local fire authority** (fire department notification form) on file at the facility **and available for review by the Division of Fire Safety inspector**.

*[(N)]***(O)** Facilities served by a volunteer or membership fire department shall be a member in good standing with the fire department. A copy of the membership or receipt for membership shall be on file at the facility and available for review.

*[(O)]***(P)** The facility shall as soon as *[practical]* **possible, no later than the following business day,** report any fire in the facility to the *[state fire marshal's office]* **Division of Fire Safety** and the Department of Mental Health.

*[(P)]***(Q)** The Division of Fire Safety may make additional requirements that provide adequate life safety protection if it is determined that the safety of the occupants is endangered. Every building or structure shall be constructed, arranged, equipped, maintained, and operated to avoid danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time necessary for escape from the building.

*[(Q)]***(R)** Prior to new construction, remodeling existing structures, and any structural alterations to existing facilities, the provider shall submit two (2) copies of plans and specifications prepared to scale for review and approval. One (1) copy shall be submitted to the Department of Mental Health's Licensure and Certification Unit; the second copy to the *[state fire marshal]* **Division of Fire Safety**. The plans shall include a narrative indicating the utilization of each area of the facility. The architect or contractor shall certify in writing that the plans are in compliance with these certification rules. The provider shall not begin construction until the plans have been reviewed **and approved** by the *[state fire marshal inspector]* **Division of Fire Safety**. All plans for new construction, remodeling**,** or additions shall comply with the Americans with Disabilities Act, Accessibility Guidelines.

*[(R)]***(S)** During the construction or remodeling process, the provider shall request a framing and wiring inspection and an inspection for the rough-in wiring for the fire alarm system by the Division of Fire Safety before the walls are enclosed. Failure to request these inspections in a timely manner may result in an unapproved fire inspection from the Division of Fire Safety.

*[(S)]***(T)** The ceiling height in all facilities shall be a minimum of seven feet six inches (7'6"). An allowance will be made by the *[state fire marshal]* **Division of Fire Safety** inspector for some areas that are below seven feet six inches (7'6") for the installation of ductwork and plumbing**, with no part of the ceiling less than six feet eight inches (6' 8")**.

*[(T)]***(U)** Facilities shall comply with all local building codes, fire codes**,** and ordinances.

*[(U)]***(V)** The latest edition of the National Fire Protection Association **(NFPA)**, Chapter 101, *Life Safety Code [shall]* prevail**s** in the interpretation of these rules.

*[(V)]***(W)** Each *[certified day program]* facility**-based day habilitation and employment service setting** shall be inspected at least once annually by a *[state fire marshal]* **Division of Fire Safety** inspector. The Department of Mental Health will initiate the fire safety inspection. If a facility is found out of compliance with the fire safety rules, the department will apply procedures for achieving compliance as promulgated under 9 CSR 45-5.060.

(2) Means of Egress Requirements.

(A) Each floor occupied in the facility shall have not less than two (2) remotely located means of egress. Each exit door **in existing approved facilities** shall not be less than thirty-two inches (32") wide *[and]***. All exit doors in new construction and facilities approved for service delivery after the effective date of this rule** shall be **a minimum of** thirty-six inches (36") wide *[in all new construction]*.

[(B) In addition to the primary route, each room or occupied space shall have a second means of escape that consists of one (1) of the following:

1. A door, stairway, passage, or hall providing a way of

unobstructed travel to the outside of the dwelling at street or ground level that is independent of and remotely located from the primary means of escape.

2. A passage through an adjacent non-lockable space, independent of and remotely located from the primary means of escape, to any approved means of escape.]

*[(C)]***(B)** No door in the path of travel to the means of egress shall be less than thirty-two inches (32") wide in an **approved** existing facility.

*[(D)]***(C)** At no time shall the occupants of the facility exit through a bathroom, storage room, furnace room, kitchen, garage, or any other room deemed hazardous by the *[state fire marshal]* **Division of Fire Safety** inspector.

*[(E)]***(D)** All exit doors shall swing in the direction of egress travel and have door closures attached. In smaller facilities that care for ten (10) or fewer *[clients]* **individuals**, the exit doors may swing inward providing all of the *[clients]* **individuals** are ambulatory. Door closures are not required in smaller facilities.

*[(F)]***(E)** Emergency lighting that has a battery backup shall be installed to light the path of egress. The location and number of emergency lights shall be determined by the *[state fire marshal]* **Division of Fire Safety**. **These lights shall be tested monthly and documentation kept indicating what lights are tested and the date and name of the person performing the test.**

*[(G)]***(F)** Lighted exit signs with a battery backup shall be installed above exit doors and as needed throughout the facility to direct the occupants to the exits. **Lighted exit signs shall be tested monthly and documentation kept indicating what lights are tested and the date and name of the person performing the test.**

*[(H)]***(G)** No *[dead bolt]* locks that require a key **or special knowledge** to unlock the lock from the inside shall be allowed. **Delayed egress locks complying with section 7.2.1.6.1 of the 2012 edition NFPA 101 are permitted, provided that no more than one such device is located in any egress path.**

*[(I)]***(H)** Overhead garage doors are not recognized as exit doorways.

*[(J)]***(I)** Mirrors shall not be placed on exit doors or adjacent to any exit in such a manner to confuse the direction of the exit. All exit doors shall be readily recognizable.

*[(K)]***(J)** All hallways shall have a clear width of at least thirty-six inches (36") wide and shall be kept free of all articles that might impede the occupants' evacuation from the home.

*[(L)]***(K)** Dead-end corridors/hallways shall not exceed twenty feet (20').

*[(M)]***(L)** All facilities that have a set of stairs or use stairs as a**n exterior** fire escape shall be constructed as follows:

1. All stairs shall be at least thirty-six inches (36") wide. Fire escapes shall be constructed of noncombustible materials;

2. *[The]* **A** maximum rise *[shall be]* **of** eight inches (8");

3. *[The]* **A** minimum tread *[shall be]* **of** nine inches (9");

4. *[The]* **A** maximum height between landings *[shall be]* **of** twelve feet (12');

5. *[The]* **A** minimum landing size *[shall be]* **of** forty-four inches (44");

6. Handrails *[shall be]* placed on both sides *[and shall be]* of sturdy construction and positioned thirty-four to thirty-eight inches (34"–38") above the tread;

7. *[The]* **An** outside diameter of the handrails *[shall be]* **of** at least one and one-fourth inches (1 1/4") and no greater than two inches (2") in size;

8. Handrails *[shall provide]* **with** a clearance of at least one and one-half inches (1 1/2") between the handrail and the wall or upright to which it is attached; and

9. Spiral staircase or winder is not permitted.

*[(N)]***(M)** Every ramp used in the component of the means of egress shall be a minimum of forty-four inches (44") wide, and have landings at the top and bottom being the same width as the ramp. Ramp height shall comply with the following:

1. Ramps less than three inches (3") in height *[shall]* have a slope of one inch (1") per eight inches (8") of run*[.]***;**

2. Ramps with a height of three to six inches (3"–6") *[shall]* have a slope of one inch (1") per ten inches (10") of run*[.]***; and**

3. Ramps with a height greater than six inches (6") *[shall]* have a slope of one inch (1") per twelve inches (12") of run.

*[(O)]***(N)** All ramps shall have a slip-resistant surface and *[shall]* be designed so that water or snow *[shall]* **do** not accumulate on their surface.

*[(P)]***(O)** All ramps over ten inches (10") in height shall have guardrails and handrails on both sides.

(3) Windows for Emergency Rescue and Ventilation.

(A) Every room or space greater than three hundred (300) square feet used by *[clients]* **individuals** shall have at least one (1) outside window for emergency rescue and ventilation. The window shall *[be]* **comply with the following:**

1. Is operable from the inside without the use of tools *[and shall]***;**

2. *[p]***P**rovide**s** a clear opening of at least twenty inches (20") wide, twenty-four inches (24") in height*[. The]***, and has a** total clear opening space *[shall be]* no less than 5.7 square feet in size*[.]***;**

3. The bottom of the **window** opening *[shall be]* **is** no more than forty-four inches (44") above the floor *[and]***;**

4. *[a]***A**ny latching device *[shall be]* **is** operated easily*[.]***;**

5. *[The]* **Provides a** clear opening **that is** *[shall be]* a rectangular solid, with a minimum width and height that provides the required 5.7 square feet opening and a minimum depth of twenty inches (20") to allow passage through the opening*[.]***;**

6. The windows shall be accessible by the fire department and *[shall]* open into an area having access to a public way.

(B) Subsection (3)(A) does not apply in the following situations:

1. In buildings protected throughout by an approved, supervised automatic sprinkler system; *[or]*

2. When the room or space has a door leading directly to the outside of the building*[.]***; or**

3. If it is an interior room greater than three hundred (300) square feet in size and has two (2) remotely located means of egress and the egress doors are a minimum of thirty-six inches (36") wide and swings in the direction of egress.

(4) Travel Distance to Exits.

(C) The travel distance in (A) and (B) above shall be permitted to be increased by fifty feet (50') in buildings protected throughout by a supervised automatic sprinkler system that is approved by the *[state fire marshal]* **Division of Fire Safety** inspector, based on the National Fire Protection Association Standards for Sprinkler Systems.

(5) Protection.

(A) Any vertical openings and stairwells shall be enclosed and protected with a one- (1-)*[-]* hour fire barrier and self-closing device attached to the door.

(B) All furnace rooms, rooms containing water heaters, boiler room**s, laundry rooms,** and storage rooms shall be separated from the remainder of the building by construction having not less than a one- (1-)*[-]* hour fire resistance rating. All doors to these rooms shall have a self-closing device attached and *[shall have]* a one- (1-)*[-]* hour fire resistive rating. The one- (1-)*[-]* hour rating required for these rooms or areas are not required if the facility installs **a one and three quarters inch (1 ¾") thick solid core wood door or a twenty (20) minute fire rated door with a self-closure device installed and** an automatic sprinkler head supplied by the domestic water supply or has an approved automatic sprinkler system. A fire alarm initiating device shall be installed in the**se** rooms or areas. **Before approval of the sprinkler installation using plastic pipe the provider must present documentation the pipe (minimum ½ inch diameter) and fittings are tested and approved to the 1881 or 1887 standard for use in sprinkler applications. If the sprinkler**

option is chosen, the above appliances must be enclosed in a smoke resistant enclosure. The door to these rooms shall be a minimum of one and three quarters inch (1 ¾") solid bonded wood core door with a self- closing device or a twenty minute fire rated door. No open penetrations including combustion air or return air vents are allowed to penetrate these enclosures or doors. Louvers that close on activation of the fire alarm or smoke detectors are allowed.

(C) *[On-site developmental]* **Facility-based day** habilitation **and employment service settings** shall be separated from other occupancies in the same building in accordance with the following:

Use Group	Fire Wall Separation in Hours
Place of assembly	2
Business	1
Mercantile	2
Institutional restrained	1
Hotels or dormitories	2

(6) Interior Finish.

(C) Hangings or draperies shall not be placed over exit doors or be located to conceal or obscure any exit. All other hangings and draperies shall be treated with a flame retardant material with verification to this effect on file for the *[state fire marshal]* **Division of Fire Safety** inspector to review. An exception can be made for window valances and shall be noted by the inspector on the fire inspection survey.

(7) Detection, Alarms, Extinguishment.

(A) All *[on-site]* **facility-based** day habilitation **and employment service settings** programs serving *[fifty (50)]* **forty-nine (49)** people or less shall have smoke detectors installed on each level, in all occupied spaces, storage rooms**,** and throughout all corridors and in all other locations as deemed necessary by the *[state fire marshal]* **Division of Fire Safety** inspector. All smoke detectors shall be powered by the building's electrical system and have a nine (9)-volt battery backup and be interconnected. Smoke detectors shall be installed and arranged so that the activation of any smoke detector causes the operation of an alarm in all detectors that is clearly audible throughout the building, including in bathrooms, corridors, and activity rooms, and above the noise of radios, televisions, and noises of normal activity.

(B) All *[on-site developmental]* **facility-based day** habilitation **and employment service settings programs** serving fifty (50) people or more shall have a full coverage electrical fire alarm system. Pull stations shall be mounted at each exit door *[and at least one (1) horn shall be installed in a central location on each floor]***, and horns/strobes shall be installed throughout the facility**. Smoke detectors shall be installed in all rooms, throughout all corridors, in all living spaces, storage rooms**,** and offices. Additional smoke detectors may be required by the *[state fire marshal]* **Division of Fire Safety** inspector as deemed necessary. Heat detectors shall be installed in all mechanical rooms, kitchens**, laundry rooms, closets,** and throughout the attic. The battery backup control panel shall be Underwriters Laboratories, Inc. (UL) or Factory Mutual (F.M.) listed and installed on a dedicated circuit in the breaker box. The fire alarm system shall be installed and maintained **in accordance with the NFPA 72 Fire Alarm Code and** in good working order.

(C) The fire alarm system shall be monitored by a monitoring company or transmitted directly to the fire department when fifty (50) or more *[clients]* **individuals** are present.

(D) All facilities shall have the fire alarm system tested, inspected, and approved annually by a fire alarm company **in accordance with the NFPA 72 Fire Alarm Code**. A copy of the test report and *[approval]* **approved inspection report** of the system shall be kept on file at the facility for review by the *[state fire marshal]* **Division of Fire Safety** inspector and the department.

(F) Any *[day program]* **facility** that has hearing-impaired occupants shall make adequate provisions so that the activation of any fire alarm system shall notify the occupants of the building. The *[state fire marshal]* **Division of Fire Safety** inspector may require additional requirements for the hearing-impaired occupants to insure adequate modification.

(G) All smoke detectors that are ten (10) years old or older shall be replaced with new smoke detectors of the same style. The new smoke detectors shall have the installation date written on the side of the detector for the *[state fire marshal]* **Division of Fire Safety inspector** to reference. All smoke detectors that are connected to a fire alarm system shall be replaced after ten (10) years of service, or recalibrated by the smoke detector's manufacturer. If the smoke detectors are recalibrated, temporary smoke detectors shall be installed so that the fire alarm system continues working properly and providing protection to the occupants while the original smoke detectors are being serviced.

(H) Facilities using **any** equipment or appliances*[, such as a gas stove or gas water heater,]* **using wood or fossil fuel** that pose a potential carbon monoxide risk, including facilities with attached garages, shall install a carbon monoxide detector(s). The detector(s) shall be installed according to the manufacturer's instructions. The *[state fire marshal]* **Division of Fire Safety** may require additional carbon monoxide detectors if the *[state fire marshal]* **Division of Fire Safety** inspector determines that the safety of the occupants is endangered.

1. Carbon monoxide detectors shall be in good operating condition. If a battery-operated detector is not operational, the facility shall install a detector that is powered by the building's electrical system with a battery backup.

2. If an elevated carbon monoxide level is detected during a fire inspection, the facility shall have all gas-fired appliances checked by a heating and air conditioning company to identify the source of the carbon monoxide. Until the facility has documentation on file at the facility verifying that all gas-fired appliances were checked by a heating and air conditioning company and are in safe working order, and the facility is determined safe by the *[state fire marshal]* **Division of Fire Safety** inspector, the fire inspection shall not be approved.

3. If a level of carbon monoxide is determined that endangers the lives of the occupants in care, the *[state fire marshal]* **Division of Fire Safety inspector** shall take measures necessary to protect the occupants. This may include evacuation of the building or closing the facility. The facility shall obtain and have on file at the facility, documentation verifying *[that]* all gas-fired appliances were checked by a heating and air conditioning company and are in safe working order. The facility shall be reinspected by the *[state fire marshal]* **Division of Fire Safety** inspector and determined safe before the occupants can return to the building or the facility can reopen.

(I) At least one (1) portable (five pound (5 lb)) 2A–10B:C fire extinguisher shall be required in all facilities. One (1) fire extinguisher shall be located in the kitchen. Additional fire extinguishers shall be placed throughout the facility *[and the]***, with a** travel distance *[shall be]* no greater than seventy-five feet (75') between fire extinguishers. Additional fire extinguishers may be required by the *[state fire marshal]* **Division of Fire Safety** inspector depending on the floor plan arrangement of space and the number of levels used.

(J) Fire extinguishers shall be installed and maintained according to the instructions of the *[state fire marshal]* **Division of Fire Safety inspector** and *[shall be]* inspected and approved annually by a fire extinguisher company. Documentation of the inspection and approval shall be on file at the facility and available for review by the *[state fire marshal]* **Division of Fire Safety** inspector.

(8) Heating, Ventilating, Air Conditioning, and Mechanical Equipment.

(C) All gas and electric heating equipment shall be equipped with thermostatic controls. All *[hot]* water heaters**, if gas fired,** shall have *[a properly sized pressure relief valve and be]* **the exhaust**

properly vented *[by]* **with** galvanized *[flue]* pipe *[and]* **with** screws at *[every]* **all** joints *[in the pipe]* or *[by]* **with a** material recommended by the manufacturer *[if they are gas fired]*. **All water heaters shall have a properly sized pressure relief valve installed with a drip leg.** The drip leg pipe on the pressure relief valve shall extend to approximately six inches (6") above the floor and shall be **of rigid material such as** copper or *[chlorinated polyvinyl chloride (CPVC) and cannot be reduced in size]* **black iron pipe**. **Chlorinated polyvinyl chloride (CPVC) or PVC pipe can only be used if manufactured specifically for use on drip legs. No drip leg may be reduced in size from the opening of temperature and pressure valve.**

(D) Facilities with a water heater *[over]* two hundred thousand British thermal units (200,000 Btus) per hour input or larger, or that is heating with a boiler, shall have a valid permit from the Division of Fire Safety posted on the premises. A copy of the permit shall be kept on file at the Division of Fire Safety.

(I) If a furnace or *[hot]* water heater is located inside a garage, *[it]* **the burner or ignition source** shall be at least eighteen inches (18") above the finished floor and enclosed inside a fire resistant room having a fire rating of thirty (30) minutes. The door to this room shall also have a fire rating of thirty (30) minutes and have a door closure attached. **Open penetrations, including combustion air or return air vents, shall not be allowed to penetrate these enclosures or doors. Louvers that close on activation of the fire alarm or smoke detectors are allowed.**

(J) All furnace rooms and rooms containing the *[hot]* water heater shall have adequate combustion air for the units. The vent size opening for the combustion air shall be measured at one (1) square inch per one thousand (1,000) Btus input if the combustion air is drawn from inside the structure and one (1) square inch per four thousand (4,000) Btus input if the air is drawn from outside of the structure. There shall be two (2) combustion air vent openings in each furnace room, one (1) located at the lower level and the other at the upper level. **Combustion air or return air vents shall not penetrate the rated or smoke enclosure.**

(K) One (1) combustion air vent opening shall be permitted if the vent opening communicates directly to the outside of the structure. This opening shall be one (1) square inch per three thousand (3,000) Btus input of the total gas appliances located in this room. The gas appliances must **be installed per manufacturer's instructions and** have *[a]* **the proper** clearance around *[them,]* **the unit or a minimum** of one inch (1") from the sides and back, and six inches (6") from the front of the unit.

(L) Air conditioning, heating, ventilating ductwork, and related equipment shall be installed in a safe manner and be in good operating condition as determined by the *[state fire marshal]* **Division of Fire Safety**.

(M) All elevators shall be inspected **bi-**annually by a state licensed elevator inspector and shall obtain an annual state operating permit form from the Division of Fire Safety and post it as required.

(9) Electrical Services.

(A) Electrical wiring shall be installed and maintained in good working order. If the *[state fire marshal]* **Division of Fire Safety inspector** considers the wiring to be unsafe for the occupants or it is installed improperly, an inspection by a licensed electrician may be required prior to fire safety approval. The inspection by the licensed electrician shall be based on National Fire Protection Association, Chapter 70, *National Electrical Code*.

(B) No electrical extension cords will be allowed, unless approved in writing by the *[state fire marshal]* **Division of Fire Safety** inspector.

*AUTHORITY: section 630.655, RSMo [2000] **2016**. Original rule filed Sept. 5, 2003, effective April 30, 2004. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment 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 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 5—Standards for Community-Based Services

PROPOSED AMENDMENT

9 CSR 45-5.130 Fire Safety for *[Residential Habilitation for]* ***Group Homes Serving* 4–9 People**. The division is amending the title statement, the purpose, and sections (1)–(8).

PURPOSE: This amendment changes the name of the division to comply with House Bill 555 and House Bill 648 passed by the 95th Missouri General Assembly which removed the term "mental retardation" from Missouri statutes, updates the rule with current terminology in the field of developmental disabilities, and adds recommendations of the Department of Public Safety, Division of Fire Safety to ensure consistency with current best practice in fire safety.

*PURPOSE: This rule establishes fire safety requirements for [residential habilitation] **group** homes serving four to nine (4–9) people funded through the Medicaid home and community-based waiver. **This rule does not apply to individual supported living in private residences.** The department delegates its authority for fire safety inspections under this rule to the Department of Public Safety, Division of Fire Safety.*

(1) General Requirements.

(A) The staff shall conduct at least one (1) fire drill **per month** and one (1) **natural** disaster*[/weather]* drill per quarter, with a minimum of one (1) fire and one (1) **natural** disaster*[/weather]* drill per year conducted while the *[residents]* **individuals** are sleeping. A drill must be conducted within one (1) week of the arrival of a new *[resident]* **individual**. The staff shall maintain a written record at the facility of the date, type of drill, time required to evacuate the building, whether the evacuation was completed, notation of any problems evacuating, and number of occupants present during the drill.

(B) Unscheduled drills shall be held at the *[state fire marshal]* **Division of Fire Safety** inspector's discretion.

(D) Each fire drill shall evacuate all persons from the building, or evacuate to an area of refuge and defend in place*[.]* **and** *[E]***e**ach fire drill shall be conducted as follows:

1. Drills *[shall]* simulate an actual fire condition;

2. Occupants **(referred to hereafter as "individuals")** and staff members *[shall]* **do** not obtain clothing or personal effects after the alarm has sounded;

3. The *[occupants]* **individuals** and staff members *[shall]* proceed to a predetermined point outside the building that is sufficiently remote to avoid fire danger, or in case of **natural** disaster*[/weather]* drill to a predetermined point inside of the building; and

4. *[Occupants]* **Individuals** and staff members *[shall]* remain in place until a recall is issued or until they are dismissed.

5. Exception. If there is potential harm to residents during drills because a resident is medically fragile, the provider may arrange the drill to not involve the medically fragile. However, all *[residents]* **individuals** who are medically fragile must participate in a drill at least once per year. This must be documented in the home.

(F) All flammable/combustible liquids, matches, toxic cleaning supplies, poisonous materials, or other hazardous items shall be stored so as to be inaccessible to the occupants if the occupants cannot handle the materials safely. If there are firearms and/or ammunition on the premises, they shall be kept in a locked space *[and residents shall not have]* **without** access **by individuals**.

(G) Clothes dryers shall be vented **to the outside or as recommended by the manufacturer** and maintained properly.

(H) The house numbers shall be plainly visible from the street in case of emergency**, at least four inches (4") in height and a contrasting color with the building**.

(K) *[No f]***F**resh-cut Christmas trees shall **not** be used unless they are treated with a flame resistant material*[.]* **and** *[D]***d**ocumentation of the treatment *[shall be]* **is** on file at the facility and available for review by the *[state fire marshal]* **Division of Fire Safety** inspector.

(M) The facility may use a cellular phone when all of the following conditions are met:

1. The phone must always have a signal;

2. The phone must always be charged;

3. The phone must be able to make and receive normal calls;

4. The phone must remain at the facility at all times; and

5. The emergency plan for the facility must address the use of cellular phones.

*[(M)]***(N)** The facility shall notify the nearest fire department that the facility is in operation and have required *[signed]* documentation **completed and signed by the local fire authority** (fire department notification form) on file at the facility **and available for review by the Division of Fire Safety inspector**.

*[(N)]***(O)** Facilities served by a volunteer or membership fire department shall be a member in good standing with the fire department. A copy of the membership or receipt for membership shall be on file at the facility and available for review.

*[(O)]***(P)** The facility shall**,** as soon as *[practical]* **possible but no later than the following business day,** report any fire in the facility to the *[state fire marshal's office]* **Division of Fire Safety** and the Department of Mental Health.

*[(P)]***(Q)** The Division of Fire Safety may make additional requirements that provide adequate life safety protection if it is determined that the safety of the occupants is endangered. Every building or structure shall be constructed, arranged, equipped, maintained, and operated to avoid danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time necessary for escape from the building.

*[(Q)]***(R)** Prior to new construction, remodeling existing structures, and any structural alterations to existing facilities, the provider shall submit two (2) copies of plans and specifications prepared to scale for review and approval. One (1) copy shall be submitted to the Department of Mental Health's Licensure and Certification Unit, the second copy to the *[state fire marshal]* **Division of Fire Safety**. The plans shall include a narrative indicating the utilization of each area of the facility. The architect or contractor shall certify in writing that the plans are in compliance with these certification rules. The provider shall not begin construction until the plans have been reviewed **and approved** by the *[state fire marshal inspector]* **Division of Fire Safety**. All plans for new construction, remodeling**,** or additions shall comply with the Americans with Disabilities Act, Accessibility Guidelines.

*[(R)]***(S)** During the construction or remodeling process, the provider shall request a framing and wiring inspection and an inspection for the rough-in wiring for the fire alarm system by the Division of Fire Safety before the walls are enclosed. Failure to have these inspections constitutes cause for disapproval by the Division of Fire Safety.

*[(S)]***(T)** Facilities that were certified and areas approved for care prior to the effective date of this rule shall have ceilings at least seven feet (7') in height. Facilities initially certified and areas initially approved for care on or after the effective date of this rule shall meet all the requirements of this rule and shall have ceilings at least seven feet, six inches (7'6") in height. If structural alterations are made in facilities certified prior to the effective date of this rule, those facilities shall meet all the requirements of this rule and shall have ceilings at least seven feet, six inches (7'6") in height in the altered space. Allowance will be made by the *[state fire marshal]* **Division of Fire Safety** inspector for the installation of ductwork and plumbing. No more than forty percent (40%) of the ceiling in each room shall be below minimal height**, with no portion of the ceiling lower than six feet, eight inches (6' 8")**.

*[(T)]***(U)** Facilities shall comply with all local building codes, fire codes**,** and ordinances.

*[(U)]***(V)** The latest edition of the National Fire Protection Association **(NFPA)**, Chapter 101, *Life Safety Code [shall]* prevail**s** in the interpretation of these rules.

*[(V)]***(W)** Each *[certified residential facility]* **group home** shall be inspected at least once annually by a *[state fire marshal]* **Division of Fire Safety** inspector. The Department of Mental Health will initiate the fire safety inspection. If a facility is found out of compliance with the fire safety rules, the department will apply procedures for achieving compliance as promulgated under 9 CSR 45-5.060.

(2) Means of Egress Requirements.

(B) Individual sleeping rooms in all new group homes certified after the effective date of this rule shall have two (2) means of egress, or a primary means of egress and a means of escape.

*[(B)]***(C)** Wheelchairs, walkers, and other support equipment shall not be stored in corridors.

*[(C)]***(D)** No door in the path of travel to the means of egress shall be less than thirty inches (30") wide. Except that newly constructed doorways shall be at least thirty-six inches (36").

*[(D)]***(E)** No primary means of escape or planned exit shall lead through a bathroom, storage room, furnace room, garage, or any other room deemed hazardous by the fire inspector. Exception: Kitchens shall not be considered hazardous unless they have commercial stoves without extinguishing equipment or other features that lend themselves to rapid fire development.

*[(E)]***(F)** All required outside exit doors shall swing in the direction of egress travel if there are more than six (6) *[residents]* **individuals** living in the home and one (1) or more person(s) is non-ambulatory. In other words, if there are six (6) *[residents]* **individuals** or less and all are ambulatory, the required exit doors do NOT have to swing in the direction of egress travel.

*[(F)]***(G)** Emergency lighting that has a battery backup shall be installed to light the path of egress. The *[state fire marshal]* **Division of Fire Safety** inspector shall determine the location and number of emergency lights. **Emergency lights shall be tested monthly and documentation indicating which lights were tested, the date tested, and the name of the person performing the test kept for review by the Division of Fire Safety.**

*[(G)]***(H)** No *[dead bolt]* locks that require a key **or special knowledge** to unlock the lock from the inside shall be allowed. **Delayed egress locks complying with section 7.2.1.6.1 of the 2012 edition NFPA 101 are permitted, provided that no more than one (1) such device is located in any egress path.**

*[(H)]***(I)** Overhead garage doors are not recognized as exit doorways.

*[(I)]***(J)** Mirrors shall not be placed on exit doors or adjacent to any exit in such a manner to confuse the direction of the exit. All exit doors shall be readily recognizable.

*[(J)]***(K)** All hallways shall have a clear width of at least thirty-six inches (36") wide and shall be kept free of all articles that might impede the occupants' evacuation from the home.

*[(K)]***(L)** Dead-end corridors/hallways shall not exceed twenty feet (20').

*[(L)]***(M)** Facilities initially certified and areas initially approved on or after the effective date of this rule, shall meet the following requirements. All facilities that have a set of stairs or use stairs as a fire escape shall be constructed as follows:

1. All stairs shall be at least thirty-six inches (36") wide. New fire escapes shall be constructed of noncombustible materials. Existing fire escapes shall be of sturdy construction and, at the discretion of the *[fire marshal]* **Division of Fire Safety**, may be required to be load tested*[.]***;**

2. *[The]* **A** maximum rise *[shall be]* **of** eight inches (8")*[.]***;**

3. *[The]* **A** minimum tread *[shall be]* **of** nine inches (9")*[.]***;**

4. *[The]* **A** maximum height between landings *[shall be]* **of** twelve feet (12')*[.]***;**

5. *[The]* **A** minimum landing size *[shall be]* **of** forty-four inches by forty-four inches (44" × 44")*[.]***;**

6. Handrails *[shall be]* placed on both sides *[and shall be]* of sturdy construction and positioned thirty-four to thirty-eight inches (34"–38") above the tread*[.]***;**

7. *[The]* **An** outside diameter of the handrails *[shall be]* **of** at least one and one-fourth inches (1 1/4") and no greater than two inches (2") in size*[.]***;**

8. Handrails *[shall provide]* **with** a clearance of at least one and one-half inches (1 1/2") between the handrail and the wall or upright to which it is attached*[.]***;**

9. Spiral staircases or winders are not permitted.

*[(M)]***(N)** Every ramp used in the component of the means of egress shall be a minimum of forty-four inches (44") wide, and have landings at the top and bottom being the same width as the ramp. Ramp height shall comply with the following:

1. Ramps less than three inches (3") in height *[shall]* have a slope of one inch (1") per eight inches (8") of run*[.]***;**

2. Ramps with a height of three to six inches (3"–6") *[shall]* have a slope of one inch (1") per ten inches (10") of run*[.]***;**

3. Ramps with a height greater than six inches (6") *[shall]* have a slope of one inch (1") per twelve inches (12") of run.

*[(N)]***(O)** All ramps shall have a slip-resistant surface and *[shall]* be designed so that water or snow *[shall]* **does** not accumulate on their surface.

*[(O)]***(P)** All ramps over ten inches (10") in height shall have guardrails and handrails on both sides.

(3) Travel Distance to Exits.

(C) The travel distance between any point in a sleeping room and an exit access door in that room shall not exceed fifty feet (50'). Exception: The travel distance in (A) and (B) of this subsection shall be permitted to be increased by fifty feet (50') in buildings protected throughout by a supervised automatic sprinkler system that is approved by the *[state fire marshal]* **Division of Fire Safety** inspector, based on the National Fire Protection Association, Standards for Sprinkler Systems.

(4) Protection.

(A) Vertical openings shall be protected so that no primary means of *[escape]* **egress** is exposed to an unprotected vertical opening. The vertical opening shall be considered protected if the opening is cut off and enclosed in a manner that provides a fire-resisting capability of not less than *[twenty (20) minutes]* **one- (1-) hour** and resists the passage of smoke. All doors or openings shall have fire- and smoke-resisting capability equivalent to that of the enclosure and shall be self-closing or automatic closing.

(B) Exception. Specific residential facilities that were certified prior to the effective date of this rule **with or** without twenty**-** (20-)*[-]* minute fire barriers in interior stairways as required by subsection (4)(A) shall be considered in compliance with current requirements, unless renovations or significant changes have occurred in the way the building is being used or the number of residents *[are]* **is** increased.

(C) All furnace rooms, rooms containing water heaters, boiler rooms, storage rooms, laundry rooms**,** and all other rooms or areas deemed hazardous by the *[state fire marshal]* **Division of Fire Safety** inspector shall be separated from the remainder of the building by a construction having not less than a *[twenty (20)-minute]* **one- (1-) hour** fire resistance rating. Doors to these rooms must be closed at all times. Doors to these rooms shall also have a *[twenty (20)-minute]* **one- (1-) hour** fire **resistance** rating *[or be a minimum of one and three-fourths inches (1 3/4") thick solid core]*. The door(s) shall also have door closure(s) attached.

(D) Exception: Specific residential facilities that were certified prior to the effective date of this rule shall be considered in compliance with subsection (4)(C) of this rule if the facility installs a sprinkler head off the domestic water supply or has an approved automatic sprinkler system and a fire alarm initiating device shall be installed in the high hazard area.

*[(D)]***(E)** Exception. The *[twenty (20)-minute]* **one- (1-) hour** fire resistance rating required for rooms or areas listed in subsection (4)(C) of this rule is not required if the facility installs a sprinkler head off the domestic water supply or has an approved automatic sprinkler system and a fire alarm initiating device shall be installed in the high hazard area**, and a one and three-fourths inches (1 3/4") thick solid core door or a twenty- (20-) minute fire rated door is installed with a self-closing device attached to prevent the passage of smoke**. **Before approval of the sprinkler installation using plastic pipe the provider must present documentation the pipe and fittings are tested and approved to the 1881 or 1887 standard for use in sprinkler applications. If the sprinkler option is chosen, the above appliances must be enclosed in smoke resistant enclosures. The door to these rooms shall be a minimum of one and three-fourths inches (1 3/4") solid bonded wood core door with a self- closing device or a twenty minute fire rated door. No open penetrations including combustion air or return air vents shall be allowed to penetrate these enclosures or doors. Louvers that close on activation of the fire alarm or smoke detectors are allowed.**

*[(E)]***(F)** Every unoccupied attic space shall be subdivided by draft stops having a one**-** (1-)*[-]* hour fire rating, into areas not to exceed three thousand (3,000) square feet. Exception: Subdivisions described in this subsection are not required if the space is protected throughout by an approved, automatic sprinkler system.

(5) Interior Finish.

(C) Hangings or draperies shall not be placed over exit doors or be located to conceal or obscure any exit. All other hangings and draperies shall be treated with a flame retardant material with verification to this effect on file for the **Division of** *[f]***F**ire **Safety** inspector to review. Exception shall be made for small window valances. These exceptions shall be noted on the fire inspection survey.

(6) Detection, Alarms, Extinguishment.

(A) Smoke detectors shall be installed in all sleeping rooms, throughout all corridors, in all living spaces, storage rooms, offices, and any other areas that are deemed necessary by the *[state fire marshal]* **Division of Fire Safety** inspector. Smoke detectors shall be in good operating condition and functional at all times. Smoke detectors may be battery powered. However, if smoke detectors are not operational during two (2) separate inspections, the facility will be required to install smoke detectors that are powered by the home's electrical system and have a *[nine (9)-volt]* battery backup. These detectors shall be interconnected so that the activation of one (1) detector will cause an alarm in all detectors. Smoke detectors that are not operational must be documented on inspection surveys. **All new construction or facilities licensed and approved after the date of**

these rules shall have smoke detectors powered by the buildings electrical system, have a battery backup, and be interconnected so activation of a single smoke alarm causes alarm in all smoke detectors.

(B) All smoke detectors that are ten (10) years old or older shall be replaced with new smoke detectors of the same style. The new smoke detectors shall have the installation date written on the side of the detector for the *[state fire marshal]* **Division of Fire Safety** inspector to reference.

(D) Any residence that has hearing-impaired occupants shall make adequate provisions so that the activation of any fire alarm system shall notify the occupants of the home. The *[state fire marshal]* **Division of Fire Safety** inspector may require additional requirements for the hearing-impaired occupants to insure adequate notification.

(F) All homes with fire alarm systems shall **continue to** have the fire alarm system tested, inspected, and approved annually by a fire alarm company*[.]* **and** *[A]***a** copy of the test report and approval of the system *[shall be]* kept on file at the residence for review by the *[state fire marshal]* **Division of Fire Safety** inspector.

(G) Residences using **any** equipment or appliances*[, such as a gas stove or gas water heater,]* **using wood or fossil fuel** that pose a potential carbon monoxide risk, including facilities with attached garages, shall install a carbon monoxide detector(s). The detector(s) shall be installed according to the manufacturer's instructions. The *[state fire marshal]* **Division of Fire Safety** inspector may require additional carbon monoxide detectors if the *[state fire marshal]* **Division of Fire Safety** inspector determines that the safety of the occupants is endangered.

1. Carbon monoxide detectors shall be in good operating condition. If a battery operated detector is not operational, the facility shall install a detector that is powered by the home's electrical system with a battery backup.

2. If an elevated carbon monoxide level is detected during a fire inspection, the residence shall have all gas-fired appliances checked by a heating and air conditioning company to identify the source of the carbon monoxide. Until the residence has documentation on file at the home verifying that all gas-fired appliances were checked by a heating and air conditioning company and are in safe working order, and the facility is determined safe by the *[state fire marshal]* **Division of Fire Safety**, the fire inspection shall not be approved.

3. If a level of carbon monoxide is determined that endangers the lives of the occupants, the *[state fire marshal]* **Division of Fire Safety** inspector shall take measures necessary to protect the occupants. This may include evacuation of the home or closing the residence. The residence shall obtain and have on file at the home, documentation verifying that all gas-fired appliances were checked by a heating and air conditioning company and are in safe working order. The residence shall be reinspected by the *[state fire marshal]* **Division of Fire Safety** inspector and determined safe before the occupants can return to the home or the residence can reopen.

(H) At least one (1) portable (five pound (5 lb)) 2A-10B:C fire extinguisher shall be required in all homes. One (1) fire extinguisher shall be located in the kitchen. Additional fire extinguishers shall be placed throughout the home and the travel distance shall be no greater than seventy-five feet (75') between fire extinguishers. Additional fire extinguishers may be required by the *[state fire marshal]* **Division of Fire Safety** depending on the floor plan arrangement of space and the number of levels used.

(I) Fire extinguishers shall be installed and maintained according to the instructions of the *[state fire marshal]* **Division of Fire Safety** and *[shall be]* inspected and approved annually by a fire extinguisher company. Documentation of the inspection and approval shall be on file at the facility and available for review by the *[state fire marshal]* **Division of Fire Safety** inspector.

(J) Homes *[initially obtaining certification and areas initially certified on or after the effective date of this rule]* shall meet the following requirements of subsections (6)(J) and (6)(K) of this rule. Homes using a commercial stove, deep fryer, or two (2) home type ranges placed side by side, shall be equipped with a range hood and extinguishing system with an automatic cutoff of the fuel supply and exhaust system in case of fire. *[The state fire marshal inspector shall inspect these systems]* **The hood and hood extinguishment system shall be inspected by a qualified technician** to insure they are in good working condition and installed/maintained correctly. The *[state fire marshal inspector]* **technician** shall base this inspection on National Fire Protection Association, Chapter 96, Standard for Fire Protection of Commercial Cooking Operations. Exceptions: 1) Home type ranges separated by an eighteen inch (18") cabinet shall not be required to have an extinguishing system installed above them. 2) Facilities that cook on a home type range with no more than four (4) burners and/or grill, does not need to install a fire extinguishing system above the range.

(7) Heating, Ventilating, Air Conditioning, and Mechanical Equipment.

(B) No facility shall be allowed to heat the home with a wood burning stove, fireplace, or wood burning furnace located inside of the structure as a primary source of heat. Fireplaces need to be approved for use by the *[state fire marshal]* **Division of Fire Safety** inspector. **If the fireplace is approved for use all chimneys shall be inspected annually and cleaned if necessary by a qualified technician or company, with documentation kept for review by the Division of Fire Safety.**

(C) All gas and electric heating equipment shall be equipped with thermostatic controls. All *[hot]* water heaters**, if gas fired,** shall have *[a properly sized pressure relief valve and]* **the exhaust** properly vented *[by]* **with** galvanized *[flue]* pipe *[and]* **with** screws at *[every]* **all** joints *[in the pipe]* or *[by]* **with a** material recommended by the manufacturer *[if they are gas fired]*. **All water heaters shall have a properly sized pressure relief valve installed with a drip leg.** The drip leg pipe on the pressure relief valve shall extend to approximately six inches (6") above the floor and shall be **of rigid material such as** copper or *[chlorinated polyvinyl chloride (CPVC) and cannot be reduced in size]* **black iron pipe**. **Chlorinated polyvinyl chloride (CPVC) or PVC pipe can only be used if manufactured specifically for use on drip legs. No drip leg may be reduced in size from the opening of temperature and pressure valve.**

(D) Facilities with a water heater *[over]* two hundred thousand British thermal units (200,000 Btus) per hour input or larger, or that are heating with a boiler, shall have a valid permit from the Division of Fire Safety posted on the premises. A copy of the permit shall be kept on file at the Division of Fire Safety.

(G) A gas shutoff valve shall be located next to all gas appliances, furnaces, and *[hot]* water heaters.

(I) If a furnace or *[hot]* water heater is located inside a garage, *[it]* **the burner or ignition source** shall be at least eighteen inches (18") above the finished floor and enclosed inside a fire resistant room having a fire rating of thirty (30) minutes. The door to this room shall also have a minimum thirty**-** (30-)*[-]* minute fire rating and have a door closure attached. **Open penetrations, including combustion air or return air vents, shall not be allowed to penetrate these enclosures or doors. Louvers that close on activation of the fire alarm or smoke detectors are allowed.**

(J) All furnace rooms and rooms containing the *[hot]* water heater shall have adequate combustion air for the units. The vent size opening for the combustion air shall be measured at one (1) square inch per one thousand (1,000) Btus input if the combustion air is drawn from inside the structure and one (1) square inch per four thousand (4,000) Btus input if the air is drawn from outside of the structure. There shall be two (2) combustion air vent openings in each furnace room, one (1) located at the lower level and the other at the upper level. **Combustion air or return air vents shall not penetrate the rated or smoke enclosure.**

(K) One (1) combustion air vent opening shall be permitted if the

vent opening communicates directly to the outside of the structure. This opening shall be one (1) square inch per three thousand (3,000) Btus input of the total gas appliances located in this room. The gas appliances must **be installed per the manufacturer's instructions with proper clearance or** have a **minimum** clearance *[around them,]* of one inch (1") from the sides and back, and six inches (6") from the front of the unit.

(L) Air conditioning, heating, ventilating ductwork, and related equipment shall be installed in a safe manner and be in good operating condition as determined by the *[state fire marshal]* **Division of Fire Safety** inspector.

(N) All elevators shall be inspected **bi-**annually by a state licensed elevator inspector and shall obtain an annual state operating permit form from the Division of Fire Safety and post it as required.

(8) Electrical Services.

(A) Electrical wiring shall be installed and maintained in good working order. If the *[state fire marshal]* **Division of Fire Safety** considers the wiring to be unsafe for the occupants or it is installed improperly, an inspection by a licensed electrician may be required prior to fire safety approval. The inspection by the licensed electrician shall be based on National Fire Protection Association, Chapter 70, *National Electrical Code*.

(B) No electrical extension cords will be allowed, unless approved in writing by the *[state fire marshal]* **Division of Fire Safety** inspector. Extension cords shall not be permanently affixed to the structure or replace permanent wiring. Exception: The use of Underwriters Laboratories, Inc. (UL) approved fused power surge strips is acceptable.

*AUTHORITY: section 630.655, RSMo [2000] **2016**. Original rule filed Sept. 5, 2003, effective April 30, 2004. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment 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 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 5—Standards for Community-Based Services

PROPOSED AMENDMENT

9 CSR 45-5.140 Fire Safety for *[Residential Habilitation for]* ***Group Homes Serving*** **10–16 People**. The division is amending the title statement, the purpose, and sections (1)–(8).

PURPOSE: This amendment changes the name of the division to comply with House Bill 555 and House Bill 648 passed by the 95th Missouri General Assembly which removed the term "mental retardation" from Missouri statutes, updates the rule with current terminology in the field of developmental disabilities, and adds requirements recommended by the Missouri Department of Public Safety, Division of Fire Safety to ensure consistency with current best practice in fire safety.

*PURPOSE: This rule establishes fire safety requirements for [residential habilitation] **group** homes serving ten to sixteen (10–16) people funded through the Medicaid home and community-based waiver. The department delegates its authority for fire safety inspections under this rule to the Department of Public Safety, Division of Fire Safety.*

(1) General Requirements.

(A) The staff shall conduct at least one (1) fire drill **per month** and **one (1) natural** disaster drill *[at least once a month]* **per quarter**, with a minimum of two (2) drills**, one (1) fire and one (1) natural disaster,** conducted annually while the *[residents]* **individuals** are sleeping. **A drill must be conducted within one (1) week of the arrival of a new individual.** The staff shall maintain a written record at the facility of the date, type of drill, time required to evacuate the building whether the evacuation was completed, notation of any problems evacuating, and number of occupants present during the drill.

(B) Unscheduled drills shall be held at the *[state fire marshal]* **Division of Fire Safety** inspector's discretion.

(D) Each fire drill shall evacuate all persons from the building, or evacuate to an area of refuge and defend in place*[. Each fire drill shall be]* **and** conducted as follows:

1. Drills *[shall]* simulate an actual fire condition;

2. Occupants (**referred to hereafter as "individuals")** and staff members *[shall]* **do** not obtain clothing or personal effects after the alarm has sounded;

3. The occupants and staff members *[shall]* proceed to a predetermined point outside the building that is sufficiently remote to avoid fire danger, or to a predetermined point inside of the building;

4. *[Occupants]* **Individuals** and staff members *[shall]* remain in place until a recall is issued or until they are dismissed; and

5. Exception. If there is potential harm to *[residents]* **individuals** during drills because a resident is medically fragile, the provider may arrange the drill to not involve the medically fragile. However, all *[residents]* **individuals** who are medically fragile must participate in a drill at least once per year. This must be documented in the home.

(F) All flammable/combustible liquids, matches, toxic cleaning supplies, poisonous materials, or other hazardous items shall be stored so as to be inaccessible to the occupants if the occupants cannot handle the materials safely. *[No firearms and/or ammunition are allowed on the premises.]* **If there are firearms and/or ammunition on the premises, they shall be kept in a locked space without access by individuals.**

(G) Clothes dryers shall be vented **to the outside or as recommended by the manufacturer** and maintained properly.

(H) The house numbers shall be plainly visible from the street in case of emergency**, at least four inches (4") in height and contrasting color with the building.**

(K) *[No f]***F**resh-cut Christmas trees shall **not** be used unless they are treated with a flame resistant material*[.]* **and** *[D]***d**ocumentation of the treatment *[shall be]* **is** on file at the facility and available for review by the *[state fire marshal]* **Division of Fire Safety**.

(M) The facility may use a cellular phone when all of the following conditions are met:

1. The phone must always have a signal;

2. The phone must always be charged;

3. The phone must be able to make and receive normal calls;

4. The phone must remain at the facility at all times; and

5. The emergency plan for the facility must address the use of cellular phones.

*[(M)]***(N)** The facility shall notify the nearest fire department that the facility is in operation and have required *[signed]* documentation **completed and signed by the local fire authority** (fire department

notification form) on file at the facility **and available for review by the Division of Fire Safety inspector**.

*[(N)]***(O)** Facilities served by a volunteer or membership fire department shall be a member in good standing with the fire department. A copy of the membership or receipt for membership shall be on file at the facility and available for review.

*[(O)]***(P)** The facility shall**,** as soon as *[practical]* **possible but no later than the following business day,** report any fire in the facility to the *[state fire marshal's]* **Division of Fire Safety** office and the Department of Mental Health.

*[(P)]***(Q)** The Division of Fire Safety may make additional requirements that provide adequate life safety protection if it is determined that the safety of the occupants is endangered. Every building or structure shall be constructed, arranged, equipped, maintained, and operated to avoid danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time necessary for escape from the building.

*[(Q)]***(R)** Prior to new construction, remodeling existing structures, and any structural alterations to existing facilities, the provider shall submit two (2) copies of plans and specifications prepared to scale for review and approval. One (1) copy shall be submitted to the Department of Mental Health's Licensure and Certification Unit; the second copy to the *[state fire marshal]* **Division of Fire Safety**. The plans shall include a narrative indicating the utilization of each area of the facility. The architect or contractor shall certify in writing that the plans are in compliance with these certification rules. The provider shall not begin construction until the plans have been reviewed **and approved** by the *[state fire marshal inspector]* **Division of Fire Safety**. All plans for new construction, remodeling**,** or additions shall comply with the Americans with Disabilities Act, Accessibility Guidelines.

*[(R)]***(S)** During the construction or remodeling process, the provider shall request a framing and wiring inspection and an inspection for the rough-in wiring for the fire alarm system by the Division of Fire Safety before the walls are enclosed. Failure to request these inspections in a timely manner may result in an unapproved fire inspection from the Division of Fire Safety.

*[(S)]***(T)** The ceiling height in all facilities shall be a minimum of seven feet six inches (7'6"). An allowance will be made by the *[state fire marshal]* **Division of Fire Safety** for some areas that are below seven feet six inches (7'6") for the installation of ductwork and plumbing. No more than forty percent (40%) of the ceiling in each room shall be below minimal height**, with no portion of the ceiling lower than six feet eight inches (6' 8")**.

*[(T)]***(U)** Facilities shall comply with all local building codes, fire codes**,** and ordinances.

*[(U)]***(V)** The latest edition of the National Fire Protection Association **(NFPA)**, Chapter 101, *Life Safety Code [shall]* prevail**s** in the interpretation of these rules.

*[(V)]***(W)** Each *[certified residential facility]* **group home** shall be inspected at least once annually by a *[state fire marshal]* **Division of Fire Safety** inspector. The department will initiate the fire safety inspection. If a facility is found out of compliance with the fire safety rules, the department will apply procedures for achieving compliance as promulgated under 9 CSR 45-5.060.

(2) Means of Egress Requirements.

(A) Each floor occupied in the home shall have not less than two (2) remotely located means of egress. Required means of egress shall not be a window. *[Each exit door shall not be less than]* **Existing licensed and approved facilities shall have exit doors with a minimum width of** thirty inches (30") wide*[, except that newly constructed doorways shall be at least]***. All new construction and facilities licensed and approved after the effective date of these rules shall have exit doors with a minimum width of** thirty-six inches (36").

(B) Individual sleeping rooms in all new group homes certified after the effective date of this rule shall have two (2) means of egress, or a primary means of egress and a means of escape.

*[(B)]***(C)** Wheelchairs**,** walkers**,** and other support equipment shall not be stored in corridors.

*[(C)]***(D)** No door in the path of travel to the means of egress shall be less than thirty inches (30") wide. Except that newly constructed doorways shall be at least thirty-six inches (36").

*[(D)]***(E)** No primary means of escape shall lead through a bathroom, storage room, furnace room, kitchen, garage, or any other room deemed hazardous by the *[fire marshal]* **Division of Fire Safety**.

*[(E)]***(F)** All exit doors shall swing in the direction of egress travel and shall have door closures attached.

*[(F)]***(G)** Emergency lighting that has a battery backup shall be installed to light the path of egress. The location and number of emergency lights shall be determined by the *[state fire marshal]* **Division of Fire Safety** inspector. **Emergency lights shall be tested once per month and documentation indicating which lights were tested, the date tested, and the name of the person performing the test kept for review by the Division of Fire Safety.**

*[(G)]***(H)** Lighted exit signs with a battery backup shall be installed above exit doors and as needed throughout the facility to direct the occupants to the exits. **Lighted exist signs shall be tested once per month and documentation shall be kept for review by the Division of Fire Safety.**

*[(H)]***(I)** No *[dead bolt]* locks that require a key **or special knowledge** to unlock the lock from the inside shall be allowed. **Delayed egress locks complying with section 7.2.1.6.1 of the 2012 edition NFPA 101 are permitted, provided that no more than one (1) such device is located in any egress path.**

*[(I)]***(J)** Overhead garage doors are not recognized as exit doorways.

*[(J)]***(K)** Mirrors shall not be placed on exit doors or adjacent to any exit in such a manner to confuse the direction of the exit. All exit doors shall be readily recognizable.

*[(K)]***(L)** All hallways shall have a clear width of at least thirty-six inches (36") wide and shall be kept free of all articles that might impede the occupants' evacuation from the home.

*[(L)]***(M)** Dead-end corridors/hallways shall not exceed twenty feet (20').

*[(M)]***(N)** Each wing or corridor of the facility shall be separated into fire compartment areas by fire doors and walls, having not less than a one**-** (1-) hour rating. All fire doors shall be equipped with a door closure and may be held open at all times with an electrical magnetic switch that is interconnected to the fire alarm system.

*[(N)]***(O)** Facilities initially certified and areas initially approved on or after the effective date of this rule, shall meet the following requirements. All facilities that have a set of stairs or use stairs as a fire escape shall be constructed as follows:

1. All stairs shall be at least thirty-six inches (36") wide. Fire escapes shall be constructed of noncombustible materials. Existing fire escapes shall be of sturdy construction and, at the discretion of the *[fire marshal]* **Division of Fire Safety**, may be required to be load tested*[.]***;**

2. *[The]* **A** maximum rise *[shall be]* **of** eight inches (8")*[.]***;**

3. *[The]* **A** minimum tread *[shall be]* **of** nine inches (9")*[.]***;**

4. *[The]* **A** maximum height between landings *[shall be]* **of** twelve feet (12')*[.]***;**

5. *[The]* **A** minimum landing size *[shall be]* **of** forty-four inches (44")*[.]***;**

6. Handrails *[shall be]* placed on both sides *[and shall be]* of sturdy construction and positioned thirty-four to thirty-eight inches (34"–38") above the tread*[.]***;**

7. *[The]* **An** outside diameter of the handrails *[shall be]* **of** at least one and one-fourth inches (1 1/4") and no greater than two inches (2") in size*[.]***;**

8. Handrails *[shall provide]* **with** a clearance of at least one and one-half inches (1 1/2") between the handrail and the wall or upright to which it is attached*[.]***;**

9. Spiral staircase or winder is not permitted.

*[(O)]***(P)** Every ramp used in the component of the means of egress shall be a minimum of forty-four inches (44") wide, and have landings at the top and bottom being the same width as the ramp. Ramp height shall comply with the following:

1. Ramps less than three inches (3") in height *[shall]* have a slope of one inch (1") per eight inches (8") of run*[.]***;**

2. Ramps with a height of three to six inches (3"–6") *[shall]* have a slope of one inch (1") per ten inches (10") of run*[.]***;**

3. Ramps with a height greater than six inches (6") *[shall]* have a slope of one inch (1") per twelve inches (12") of run.

*[(P)]***(Q)** All ramps shall have a slip-resistant surface and *[shall]* be designed so that water or snow *[shall]* **does** not accumulate on their surface.

*[(Q)]***(R)** All ramps over ten inches (10") in height shall have guardrails and handrails on both sides.

(3) Travel Distance to Exits.

(C) The travel distance between any point in a sleeping room and an exit access door in that room shall not exceed fifty feet (50'). Exception: The travel distance in (A) and (B) of this section shall be permitted to be increased by fifty feet (50') in buildings protected throughout by a supervised automatic sprinkler system that is approved by the *[fire marshal]* **Division of Fire Safety**, based on the National Fire Protection Association, Standards for Sprinkler Systems.

(4) Protection.

(A) Vertical openings shall be protected so that no primary means of *[escape]* **egress** is exposed to an unprotected vertical opening. The vertical opening shall be considered protected if the opening is cut off and enclosed in a manner that provides a fire-resisting capability of not less than *[twenty (20) minutes]* **one (1) hour** and resists the passage of smoke. Any doors or openings shall have fire- and smoke-resisting capability equivalent to that of the enclosure and shall be self-closing or automatic closing.

(B) Exception. Specific residential facilities that were certified prior to the effective date of this rule with twenty- (20-) minute fire barriers shall be considered in compliance with current requirements, unless renovations or significant changes have occurred in the way the building is being used or the number of residents are increased.

*[(B)]***(C)** Interior stairways shall be closed with one- (1-)*[-]* hour*[-]* fire barriers, with all openings equipped with smoke actuated automatic-closing or self-closing doors having a fire resistance comparable to that required for the enclosure.

*[(C)]***(D)** All furnace rooms, rooms containing water heaters, boiler rooms, storage rooms, laundry rooms**,** and all other rooms or areas deemed hazardous by the *[state fire marshal]* **Division of Fire Safety** inspector shall be separated from the remainder of the building by construction having not less than a one- (1-)*[-]* hour fire-resistance rating. All doors to these rooms shall have a self-closing device attached and shall have a minimum one- (1-)*[-]* hour fire rating.

*[(D)]***(E)** Exception. The one- (1-)*[-]* hour fire resistance rating required for rooms or areas listed in subsection (4)(C) of this rule is not required if the facility installs a sprinkler head off the domestic water supply or has an approved automatic sprinkler system and a fire alarm initiating device shall be installed in the high hazard area. **For group homes certified after the effective date of this rule, a one and three-fourths inches (1 3/4") thick solid core door or a twenty- (20-) minute fire rated door shall be installed with a self-closing device attached to prevent the passage of smoke. Before approval of the sprinkler installation using plastic pipe the provider must present documentation the pipe and fittings are tested and approved to the 1881 or 1887 standard for use in sprinkler applications. If the sprinkler option is chosen, the above appliances must be enclosed in smoke resistant enclosures. The door to these rooms shall be a minimum of one and three-fourths inches (1 3/4") solid bonded wood core door with a self-closing device or a twenty minute fire rated door. No open penetrations including combustion air or return air vents shall be allowed to penetrate these enclosures or doors. Louvers that close on activation of the fire alarm or smoke detectors are allowed.**

*[(E)]***(F)** Every unoccupied attic space shall be subdivided by draft stops having a one- (1-)*[-]* hour fire rating, into areas not to exceed three thousand (3,000) square feet. Exception: Subdivisions described in this subsection are not required if the space is protected throughout by an approved, automatic sprinkler system.

*[(F)]***(G)** All doors to sleeping rooms shall have a fire resistance rating of twenty (20) minutes.

(5) Interior Finish.

(C) Hangings or draperies shall not be placed over exit doors or be located to conceal or obscure any exit. All other hangings and draperies shall be treated with a flame retardant material with verification to this effect on file for the *[state fire marshal]* **Division of Fire Safety** to review. Exception shall be made for small window valances. These exceptions shall be noted on the fire inspection survey.

(6) Detection, Alarms, Extinguishment.

(A) All facilities shall have a full coverage electrical fire alarm system. Pull stations shall be mounted at each exit door *[and at least one (1) horn/strobe shall be installed in a central location on each floor]* **and horns strobes shall be installed throughout the facility**. Smoke detectors shall be installed in all sleeping rooms, throughout all corridors, in all living spaces, storage rooms**,** and offices. Additional smoke detectors may be required by the *[state fire marshal]* **Division of Fire Safety** inspector as deemed necessary. Heat detectors shall be installed in all mechanical rooms, kitchens and throughout the attic. The battery backup control panel shall be Underwriters Laboratory (UL) or Factory Mutual (F.M.) listed and installed on a dedicated circuit breaker box. The fire alarm system shall be installed and maintained in good working order and shall be UL or F.M. listed. The fire alarm system shall be installed and maintained per the National Fire Alarm Code (NFPA 72) and the *National Electrical Code*.

(B) All smoke detectors that are ten (10) years old or older shall be replaced with new smoke detectors of the same style. The new smoke detectors shall have the installation date written on the side of the detector for the *[state fire marshal]* **Division of Fire Safety** to reference.

(D) Any residence that has hearing-impaired occupants shall make adequate provisions so that the activation of any fire alarm system shall notify the occupants of the home. The *[state fire marshal]* **Division of Fire Safety** may require additional requirements for the hearing-impaired occupants to insure adequate notification.

(F) All facilities shall have the fire alarm system tested, inspected, and approved annually by a fire alarm company*[.]* **and** *[A]***a** copy of the test report and approval of the system *[shall be]* kept on file at the facility for review by the *[state fire marshal]* **Division of Fire Safety**.

(G) Facilities using **any** equipment or appliances*[, such as a gas stove or gas water heater,]* **using wood or fossil fuel, and** that pose a potential carbon monoxide risk, including facilities with attached garages, shall install a carbon monoxide detector(s). The detector(s) shall be installed according to the manufacturer's instructions. The *[state fire marshal]* **Division of Fire Safety** inspector may require additional carbon monoxide detectors if the *[state fire marshal]* **Division of Fire Safety** inspector determines that the safety of the occupants is endangered.

1. Carbon monoxide detectors shall be in good operating condition. If a battery-operated detector is not operational, the facility shall install a detector that is powered by the home's electrical system with a battery backup.

2. If an elevated carbon monoxide level is detected during a fire inspection, the facility shall have all gas-fired appliances checked by a heating and air conditioning company to identify the source of the carbon monoxide. Until the facility has documentation on file at the home verifying that all gas-fired appliances were checked by a heating and air conditioning company and are in safe working order, and the facility is determined safe by the *[state fire marshal]* **Division of Fire Safety**, the fire inspection shall not be approved.

3. If a level of carbon monoxide is determined that endangers the lives of the occupants, the *[state fire marshal]* **Division of Fire Safety** shall take measures necessary to protect the occupants. This may include evacuation of the building or closing the facility. The facility shall obtain and have on file at the facility, documentation verifying that all gas-fired appliances were checked by a heating and air conditioning company and are in safe working order. The facility shall be re-inspected by the *[state fire marshal]* **Division of Fire Safety** and determined safe before the occupants can return to the building or the facility can reopen.

(H) At least one (1) portable (five pound (5 lb)) 2A-10B:C fire extinguisher shall be required in all facilities. One (1) fire extinguisher shall be located in the kitchen. Additional fire extinguishers shall be placed throughout the facility *[and the]***, with a** travel distance *[shall be]* no greater than seventy-five feet (75') between fire extinguishers. Additional fire extinguishers may be required by the *[state fire marshal]* **Division of Fire Safety** inspector depending on the floor plan arrangement of space and the number of levels used.

(I) Fire extinguishers shall be installed and maintained according to the instructions of the *[state fire marshal]* **Division of Fire Safety** inspector and *[shall be]* inspected and approved annually by a fire extinguisher company. Documentation of the inspection and approval shall be on file at the facility and available for review by the *[state fire marshal]* **Division of Fire Safety** inspector.

(J) Facilities using a commercial stove, deep fryer, or two (2) home type ranges placed side by side, or a home type range that produces a grease laden vapor shall be equipped with a range hood and extinguishing system with an automatic cutoff of the fuel supply and exhaust system in case of fire. *[The state fire marshal inspector]* **A qualified technician** shall inspect these systems to insure they are in good working condition and installed/maintained correctly. The *[state fire marshal inspector]* **qualified technician** shall base this inspection on National Fire Protection Association, Chapter 96, Standard for Fire Protection of Commercial Cooking Operations. Exception: 1) Home type ranges separated by an eighteen inch (18") cabinet shall not be required to have an extinguishing system installed above them. 2) Facilities that cook on a home type range, and have a menu that does not include frying, or emitting a grease laden vapor, and has approval letter from the Department of Mental Health, does not need to install a fire extinguishing system above the range.

(7) Heating, Ventilating, Air Conditioning, and Mechanical Equipment.

(C) All gas and electric heating equipment shall be equipped with thermostatic controls. All *[hot]* water heaters**, if gas fired,** shall have *[a properly sized pressure relief valve and be]* **the exhaust** properly vented *[by]* **with** galvanized *[flue]* pipe *[and]* **with** screws at *[every]* **all** joints *[in the pipe]* or *[by]* **with a** material recommended by the manufacturer *[if they are gas fired]*. **All water heaters shall have a properly sized pressure relief valve installed with a drip leg.** The drip leg pipe on the pressure relief valve shall extend to approximately six inches (6") above the floor and shall be **of rigid material such as** copper or *[chlorinated polyvinyl chloride (CPVC) and cannot be reduced in size]* **black iron pipe**. **Chlorinated polyvinyl chloride (CPVC) or PVC pipe can only be used if manufactured specifically for use on drip legs. No drip leg may be reduced in size from the opening of temperature and pressure valve.**

(D) Facilities with a water heater *[over]* two hundred thousand British thermal units (200,000 Btus) per hour input or larger, or that is heating with a boiler, shall have a valid permit from the Division of Fire Safety posted on the premises. A copy of the permit shall be kept on file at the Division of Fire Safety.

(G) A gas shutoff valve shall be located next to all gas appliances, furnaces, *[hot]* water heaters.

(I) If a furnace or *[hot]* water heater is located inside a garage, *[they]* **the burner or ignition source** shall be at least eighteen inches (18") above the finished floor and enclosed inside a fire resistant room *[as described in subsection (4)(C) of this rule]* **having a fire rating of thirty (30) minutes**. **The door to this room shall also have a minimum thirty- (30-) minute fire rating and have a door closure attached. Open penetrations, including combustion air or return air vents, shall not be allowed to penetrate these enclosures or doors. Louvers that close on activation of the fire alarm or smoke detectors shall be allowed.**

(J) All furnace rooms and rooms containing the *[hot]* water heater shall have adequate combustion air for the units. The vent size opening for the combustion air shall be measured at one (1) square inch per one thousand (1,000) Btus input if the combustion air is drawn from inside the structure and one (1) square inch per four thousand (4,000) Btus input if the air is drawn from outside of the structure. There shall be two (2) combustion air vent openings in each furnace room, one (1) located at the lower level and the other at the upper level. **Combustion or return openings shall not allow the passage of smoke to the facility.**

(K) One (1) combustion air vent opening shall be permitted if the vent opening communicates directly to the outside of the structure. This opening shall be one (1) square inch per three thousand (3,000) Btus input of the total gas appliances located in this room. The gas appliances must **be installed per the manufacturer's instructions with proper clearance or** have a **minimum** clearance *[around them,]* of one inch (1") from the sides and back, and six inches (6") from the front of the unit.

(L) Air conditioning, heating, ventilating ductwork, and related equipment shall be installed in a safe manner and be in good operating condition as determined by the *[state fire marshal]* **Division of Fire Safety**.

(N) All elevators shall be inspected **bi-**annually by a state licensed elevator inspector and shall obtain an annual state operating permit form from the Division of Fire Safety and post it as required.

(8) Electrical Services.

(A) Electrical wiring shall be installed and maintained in good working order. If *[state fire marshal]* **Division of Fire Safety** considers the wiring to be unsafe for the occupants or if it is installed improperly, an inspection by a licensed electrician may be required prior to fire safety approval. The inspection by the licensed electrician shall be based on National Fire Protection Association, Chapter 70, *National Electrical Code*.

(B) No electrical extension cords will be allowed, unless approved in writing by the *[state fire marshal]* **Division of Fire Safety**. Extension cords shall not be permanently affixed to the structure or replace permanent wiring. Exception: The use of Underwriters Laboratories, Inc. (UL) approved fused power surge strips is acceptable.

*AUTHORITY: section 630.655, RSMo [2000] **2016**. Original rule filed Sept. 5, 2003, effective April 30, 2004. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in

support of or in opposition to this proposed amendment 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 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 5—Standards for Community-Based Services

PROPOSED AMENDMENT

9 CSR 45-5.150 Fire Safety for *[Residential Habilitation for]* ***Group Homes Serving*** **17 or More People**. The division is amending the title statement, the purpose, and sections (1)–(8).

PURPOSE: This amendment changes the name of the division to comply with House Bill 555 and House Bill 648 passed by the 95th Missouri General Assembly which removed the term "mental retardation" from Missouri statutes, updates the rule with current terminology in the field of developmental disabilities, and adds requirements recommended by the Department of Public Safety, Division of Fire Safety to ensure consistency with current best practice in fire safety.

PURPOSE: This rule establishes fire safety requirements for [residential habilitation] ***group*** *homes serving seventeen (17) or more people funded through the Medicaid home and community-based waiver. The department delegates its authority for fire safety inspections under this rule to the Department of Public Safety, Division of Fire Safety.*

(1) General Requirements.

(A) The staff shall conduct at least one (1) fire drill **per month** and one (1) **natural** disaster drill per *[month]* **quarter**, with a minimum of two (2) drills, one (1) fire and one (1) **natural** disaster, conducted annually while the *[residents]* **individuals** are sleeping. **A drill must be conducted within one (1) week of the arrival of a new individual.** The staff shall maintain a written record at the facility of the date, type of drill, time required to evacuate the building, whether the evacuation was completed, notation of any problems evacuating, and number of occupants present during the drill.

(B) Unscheduled drills shall be held at the *[state fire marshal]* **Division of Fire Safety** inspector's discretion.

(D) Each fire drill shall evacuate all persons from the building, or evacuate to an area of refuge and defend in place*[. Each fire drill shall]* **and** be conducted as follows:

1. Drills *[shall]* simulate an actual fire condition;

2. Occupants **(referred to hereafter as "individuals")** and staff members *[shall]* **do** not obtain clothing or personal effects after the alarm has sounded;

3. The *[occupants]* **individuals** and staff members *[shall]* proceed to a predetermined point outside the building that is sufficiently remote to avoid fire danger, or to a predetermined point inside of the building; and

4. *[Occupants]* **Individuals** and staff members *[shall]* remain in place until a recall is issued or until they are dismissed.

5. Exception. If there is potential harm to *[residents]* **individuals** during drills because a resident is medically fragile, the provider may arrange the drill to not involve the medically fragile. However, all *[residents]* **individuals** who are medically fragile must participate in a drill at least once per year. This must be documented in the home.

(F) All flammable/combustible liquids, matches, toxic cleaning supplies, poisonous materials, or other hazardous items shall be stored so as to be inaccessible to the occupants if the occupants cannot handle the materials safely. *[No firearms and/or ammunition are allowed on the premises.]* **If there are firearms and/or ammunition on the premises, they shall be kept in a locked space without access by individuals.**

(G) Clothes dryers shall be vented **to the outside** and maintained *[properly]* **per the manufacturer's instructions**.

(H) The house numbers shall be plainly visible from the street in case of emergency**, at least four inches (4") in height and contrasting color with the building**.

(K) *[No f]***F**resh-cut Christmas trees shall **not** be used unless they are treated with a flame resistant material*[.]* **and** *[D]***d**ocumentation of the treatment *[shall be]* **is** on file at the facility and available for review by the *[fire inspector]* **Division of Fire Safety**.

(M) The facility may use a cellular phone when all of the following conditions are met:

1. The phone must always have a signal;

2. The phone must always be charged;

3. The phone must be able to make and receive normal calls;

4. The phone must remain at the facility at all times; and

5. The emergency plan for the facility must address the use of cellular phones.

*[(M)]***(N)** The facility shall notify the nearest fire department that the facility is in operation and have required *[signed]* documentation **completed and signed by the local fire authority** (fire department notification form) on file at the facility **and available for review by the Division of Fire Safety inspector**.

*[(N)]***(O)** Facilities served by a volunteer or membership fire department shall be a member in good standing with the fire department. A copy of the membership or receipt for membership shall be on file at the facility and available for review.

*[(O)]***(P)** The facility shall**,** as soon as *[practical]* **possible, no later than the following business day,** report any fire in the facility to the *[state fire marshal's]* **Division of Fire Safety** office and the Department of Mental Health.

*[(P)]***(Q)** The Division of Fire Safety may make additional requirements that provide adequate life safety protection if it is determined that the safety of the occupants is endangered. Every building or structure shall be constructed, arranged, equipped, maintained, and operated to avoid danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time necessary for escape from the building.

*[(Q)]***(R)** Prior to new construction, remodeling existing structures, and any structural alterations to existing facilities, the provider shall submit two (2) copies of plans and specifications prepared to scale for review and approval. One (1) copy shall be submitted to the Department of Mental Health's Licensure and Certification Unit; the second copy to the *[state fire marshal]* **Division of Fire Safety**. The plans shall include a narrative indicating the utilization of each area of the facility. The architect or contractor shall certify in writing that the plans are in compliance with these certification rules. The provider shall not begin construction until the plans have been reviewed **and approved** by the *[state fire marshal inspector]* **Division of Fire Safety**. All plans for new construction, remodeling**,** or additions shall comply with the Americans with Disabilities Act, Accessibility Guidelines.

*[(R)]***(S)** During the construction or remodeling process, the provider shall request a framing and wiring inspection and an inspection for the rough-in wiring for the fire alarm system by the Division of Fire Safety before the walls are enclosed. Failure to have these inspections conducted will result in an unapproved fire inspection from the Division of Fire Safety.

*[(S)]***(T)** The ceiling height in all facilities shall be a minimum of seven feet six inches (7'6"). An allowance will be made by the *[state fire marshal]* **Division of Fire Safety** for some areas that are below seven feet six inches (7'6") for the installation of ductwork and plumbing. No more than forty percent (40%) of the ceiling in each room shall be below minimal height**, with no portion of the ceiling**

less than six feet eight inches (6' 8").

*[(T)]***(U)** Facilities shall comply with all local building codes, fire codes**,** and ordinances.

*[(U)]***(V)** The latest edition of the National Fire Protection Association **(NFPA)**, Chapter 101, *Life Safety Code [shall]* prevails in the interpretation of these rules.

*[(V)]***(W)** Each *[certified]* residential facility shall be inspected at least once annually by a *[state fire marshal]* **Division of Fire Safety** inspector. The department will initiate the fire safety inspection. If a facility is found out of compliance with the fire safety rules, the department will apply procedures for achieving compliance as promulgated under 9 CSR 45-5.060.

(2) Means of Egress Requirements.

(B) Individual sleeping rooms in all new group homes certified after the effective date of this rule shall have two (2) means of egress, or a primary means of egress and a means of escape.

*[(B)]***(C)** Wheelchair**s**, walkers**,** and other support equipment shall not be stored in corridors.

*[(C)]***(D)** No door in the path of travel to the means of egress shall be less than thirty-six inches (36") wide.

*[(D)]***(E)** No primary means of escape shall lead through a bathroom, storage room, furnace room, kitchen, garage, or any other room deemed hazardous by the *[state fire marshal]* **Division of Fire Safety** inspector.

*[(E)]***(F)** All exit doors shall swing in the direction of egress travel and shall have door closures attached.

*[(F)]***(G)** Emergency lighting that has a battery backup shall be installed to light the path of egress. The location and number of emergency lights shall be determined by the *[state fire marshal]* **Division of Fire Safety** inspector. **Emergency lights shall be tested monthly and documentation indicating which lights were tested, the date tested, and the name of the person performing the test kept for review by the Division of Fire Safety.**

*[(G)]***(H)** Lighted exit signs with a battery backup shall be installed above exit door**s** and as needed throughout the facility to direct the occupants to the exits.

*[(H)]***(I)** No *[dead bolt]* locks that require a key **or special knowledge** to unlock the lock from the inside shall be allowed. **Delayed egress locks complying with section 7.2.1.6.1 of the 2012 edition NFPA 101 are permitted, provided that no more than one (1) such device is located in any egress path.**

*[(I)]***(J)** Overhead garage doors are not recognized as exit doorways.

*[(J)]***(K)** Mirrors shall not be placed on exit doors or adjacent to any exit in such a manner to confuse the direction of the exit. All exit doors shall be readily recognizable.

*[(K)]***(L)** All hallways shall have a clear width of at least thirty-six inches (36") wide and shall be kept free of all articles that might impede the occupants' evacuation from the home.

*[(L)]***(M)** Dead-end corridors/hallways shall not exceed twenty feet (20').

*[(M)]***(N)** Each wing or corridor of the facility shall be separated into fire compartment areas by fire doors and walls, having not less than a one**-** (1-)*[-]* hour rating. All fire doors shall be equipped with a door closure and may be held open at all times with an electrical magnetic switch that is interconnected to the fire alarm system.

*[(N)]***(O)** Facilities initially certified and areas initially approved on or after the effective date of this rule, shall meet the following requirements. All facilities that have a set of stairs, or use stairs as a fire escape shall be constructed as follows:

1. All stairs shall be at least thirty-six inches (36") wide. Fire escapes shall be constructed of noncombustible materials. Existing fire escapes shall be of sturdy construction and, at the discretion of the *[fire marshal]* **Division of Fire Safety**, may be required to be load tested*[.]***;**

2. *[The]* **A** maximum rise *[shall be]* **of** eight inches (8")*[.]***;**

3. *[The]* **A** minimum tread *[shall be]* **of** nine inches (9")*[.]***;**

4. *[The]* **A** maximum height between landings *[shall be]* **of** twelve feet (12')*[.]***;**

5. *[The]* **A** minimum landing size *[shall be]* **of** forty-four inches (44")*[.]***;**

6. Handrails *[shall be]* placed on both sides *[and shall be]* of sturdy construction and positioned thirty-four to thirty-eight inches (34"–38") above the tread*[.]***;**

7. *[The]* **An** outside diameter of the handrails *[shall be]* **of** at least one and one-fourth inches (1 1/4") and no greater than two inches (2") in size*[.]***;**

8. Handrails *[shall provide]* **with** a clearance of at least one and one-half inches (1 1/2") between the handrail and the wall or upright to which it is attached*[.]***;**

9. Spiral staircase or winder is not permitted.

*[(O)]***(P)** Every ramp used in the component of the means of egress shall be a minimum of forty-four inches (44") wide, and have landings at the top and bottom being the same width as the ramp. Ramp height shall comply with the following:

1. Ramps less than three inches (3") in height *[shall]* have a slope of one inch (1") per eight inches (8") of run*[.]***;**

2. Ramps with a height of three to six inches (3"–6") *[shall]* have a slope of one inch (1") per ten inches (10") of run*[.]***;**

3. Ramps with a height greater than six inches (6") *[shall]* have a slope of one inch (1") per twelve inches (12") of run.

*[(P)]***(Q)** All ramps shall have a slip-resistant surface and *[shall]* be designed so that water or snow *[shall]* **does** not accumulate on their surface.

*[(Q)]***(R)** All ramps over ten inches (10") in height shall have guardrails and handrails on both sides.

(3) Travel Distance to Exits.

(C) At the discretion of the *[state fire marshal]* **Division of Fire Safety** inspector and in consideration of the presence of an automated sprinkler system, the distances in subsections (A) and (B) of this section may be extended by fifty feet (50').

(4) Protection.

(A) Vertical openings shall be protected so that no primary means of *[escape]* **egress** is exposed to an unprotected vertical opening. The vertical opening shall be considered protected if the opening is cut off and enclosed in a manner that provides a fire-resisting capability of not less than *[twenty (20) minutes]* **one- (1-) hour** and resists the passage of smoke. Any doors or openings shall have fire- and smoke-resisting capability equivalent to that of the enclosure and shall be self-closing or automatic closing.

(B) Exception. Specific residential facilities that were certified prior to the effective date of this rule with twenty- (20-) minute fire barriers shall be considered in compliance with current requirements, unless renovations or significant changes have occurred in the way the building is being used or the number of residents is increased.

*[(B)]***(C)** Interior stairways shall be closed with one- (1-)*[-]* hour fire barriers, with all openings equipped with smoke-actuated automatic-closing or self-closing doors having a fire resistance comparable to that required for the enclosure.

*[(C)]***(D)** All furnace rooms, rooms containing water heaters, boiler rooms, storage rooms, laundry rooms**,** and all other rooms or areas deemed hazardous by the *[state fire marshal]* **Division of Fire Safety** inspector shall be separated from the remainder of the building by construction having not less than a one**-** (1-)*[-]* hour fire resistance rating. All doors to these rooms shall have a self-closing device attached and shall have a minimum one**-** (1-)*[-]* hour fire rating.

*[(D)]***(E)** All doors to sleeping rooms shall have a fire resistance rating of twenty (20) minutes.

*[(E)]***(F)** All buildings shall be protected throughout by an approved, automatic sprinkler system installed **and maintained** in accordance with the National Fire Protection Association, Standards for

Installation of Sprinkler Systems. Quick response or residential sprinkler heads shall be installed throughout the structure.

*[(F)]***(G)** The sprinkler system shall initiate the fire alarm system upon activation of water flow.

*[(G)]***(H)**Tamper switches shall be installed on the sprinkler system valves and shall transmit a supervisory signal to the fire alarm control panel.

*[(H)]***(I)** All facilities shall have the sprinkler system tested, inspected, and approved annually by a fire sprinkler company. A copy of the test report and approval of the system shall be kept on file at the facility for review by the *[state fire marshal]* **Division of Fire Safety** inspector.

(5) Interior Finish.

(C) Hangings or draperies shall not be placed over exit doors or be located to conceal or obscure any exit. All other hangings and draperies shall be treated with a flame retardant material with verification to this effect on file for the **Division of** *[f]***F**ire **Safety** inspector to review. Exception shall be made for small window valances. These exceptions shall be noted on the fire inspection survey.

(6) Detection, Alarms, Extinguishment.

(A) All facilities shall have a full coverage electrical fire alarm system. Pull stations shall be mounted at each exit door *[and at least one (1) horn/strobe shall be installed in a central location on each floor]*. **Horns and strobe lights connected to the fire alarm shall be installed throughout the facility.** Smoke detectors shall be installed in all sleeping rooms, throughout all corridors, in all living spaces, storage rooms**,** and offices. Additional smoke detectors may be required by the *[state fire marshal]* **Division of Fire Safety** as deemed necessary. Heat detectors shall be installed in all mechanical rooms, kitchens**,** and throughout the attic. The battery backup control panel shall be Underwriters Laboratories, Inc. (UL) or Factory Mutual (F.M.) listed and installed on a dedicated circuit in the breaker box. The fire alarm system shall be installed and maintained in good working order and should be Underwriters Laboratories, Inc. (UL) or Factory Mutual (F.M.) listed. The fire system shall be installed and maintained per the National Fire Alarm Code (NFPA 72) and the *National Electrical Code*.

(B) All smoke detectors that are ten (10) years old or older shall be replaced with new smoke detectors of the same style. The new smoke detectors shall have the installation date written on the side of the detector for the *[state fire marshal]* **Division of Fire Safety** to reference.

(D) Any facility that has hearing-impaired occupants shall make adequate provisions so that the activation of any fire alarm system shall notify the occupants of the home. The *[state fire marshal]* **Division of Fire Safety** inspector may require additional requirements for the hearing-impaired occupants to insure adequate notification.

(F) All facilities shall have the fire alarm system tested, inspected, and approved annually by a fire alarm company*[.]* **and** *[A]***a** copy of the test report and approval of the system *[shall be]* kept on file at the facility for review by the *[state fire marshal]* **Division of Fire Safety** inspector.

(G) Facilities using **any** equipment or appliances*[, such as a gas stove or gas water heater,]* **using wood or fossil fuel, and** that pose a potential carbon monoxide risk, including facilities with attached garages, shall install a carbon monoxide detector(s). The detector(s) shall be installed according to the manufacturer's instructions. The *[state fire marshal]* **Division of Fire Safety** inspector may require additional carbon monoxide detectors if the *[state fire marshal]* **Division of Fire Safety** inspector determines that the safety of the occupants is endangered.

1. Carbon monoxide detectors shall be in good operating condition. If a battery-operated detector is not operational, the facility shall install a detector that is powered by the home's electrical system with a battery backup.

2. If an elevated carbon monoxide level is detected during a fire inspection, the facility shall have all gas-fired appliances checked by a heating and air conditioning company to identify the source of the carbon monoxide. Until the facility has documentation on file at the home verifying that all gas-fired appliances were checked by a heating and air conditioning company and are in safe working order, and the facility is determined safe by the *[state fire marshal]* **Division of Fire Safety** inspector, the fire inspection shall not be approved.

3. If a level of carbon monoxide is determined that endangers the lives of the occupants, the *[state fire marshal]* **Division of Fire Safety** inspector shall take measures necessary to protect the occupants. This may include evacuation of the building or closing the facility. The facility shall obtain and have on file at the facility, documentation verifying that all gas-fired appliances were checked by a heating and air conditioning company and are in safe working order. The facility shall be reinspected by the fire inspector and determined safe before the occupants can return to the building or the facility can reopen.

(H) At least one (1) portable (five pound (5 lb)) 2A-10B:C fire extinguisher shall be required in all facilities. One (1) fire extinguisher shall be located in the kitchen. Additional fire extinguishers shall be placed throughout the facility *[and the]***, with a** travel distance *[shall be]* no greater than seventy-five feet (75') between fire extinguishers. Additional fire extinguishers may be required by the *[state fire marshal]* **Division of Fire Safety** inspector depending on the floor plan arrangement of space and the number of levels used.

(I) Fire extinguishers shall be installed and maintained according to the instructions of the *[state fire marshal]* **Division of Fire Safety** inspector and *[shall be]* inspected and approved annually by a fire extinguisher company. Documentation of the inspection and approval shall be on file at the facility and available for review by the *[state fire marshal]* **Division of Fire Safety** inspector.

(J) Facilities using a commercial stove, deep fryer, or two (2) home type ranges placed side by side, or a home type range that produces a grease laden vapor shall be equipped with a range hood and extinguishing system with an automatic cutoff of the fuel supply and exhaust system in case of fire. The *[state fire marshal]* **Division of Fire Safety** inspector shall inspect these systems to insure they are in good working condition and installed/maintained correctly. The *[state fire marshal]* **Division of Fire Safety** inspector shall base this inspection on National Fire Protection Association, Chapter 96, Standard for Fire Protection of Commercial Cooking Operations.

(7) Heating, Ventilating, Air Conditioning, and Mechanical Equipment.

(C) All gas and electric heating equipment shall be equipped with thermostatic controls. All *[hot]* water heaters**, if gas fired,** shall have *[a properly sized pressure relief valve and be]* **the exhaust** properly vented *[by]* **with** galvanized *[flue]* pipe *[and]* **with** screws at *[every]* **all** joints *[in the pipe]* or *[by]* **with a** material recommended by the manufacturer *[if they are gas fired]*. **All water heaters shall have a properly sized pressure relief valve installed with a drip leg.** The drip leg pipe on the pressure relief valve shall extend to approximately six inches (6") above the floor and shall be **of rigid material such as** copper or *[chlorinated polyvinyl chloride (CPVC) and cannot be reduced in size]* **black iron pipe**. **Chlorinated polyvinyl chloride (CPVC) or PVC pipe can only be used if manufactured specifically for use on drip legs. No drip leg may be reduced in size from the opening of temperature and pressure valve.**

(D) Facilities with a water heater *[over]* two hundred thousand British thermal units (200,000 Btus) per hour input or larger, or that is heating with a boiler, shall have a valid permit from the Division of Fire Safety posted on the premises. A copy of the permit shall be kept on file at the Division of Fire Safety.

(I) If a furnace or *[hot]* water heater is located inside a garage, *[they]* **the burner or ignition source** shall be at least eighteen inches (18") above the finished floor and enclosed inside a fire resistant

room as described in subsection (4)(C) of this rule **having a fire rating of thirty (30) minutes**. **The door to this room shall also have a minimum thirty (30) minute fire rating and have a door closure attached. Open penetrations, including combustion air or return air vents, shall not be allowed to penetrate these enclosures or doors. Louvers that close on activation of the fire alarm or smoke detectors are allowed.**

(J) All furnace rooms and rooms containing the gas *[hot]* water heater shall have adequate combustion air for the units. The vent size opening for the combustion air shall be measured at one (1) square inch per one thousand (1,000) Btus input if the combustion air is drawn from inside the structure and one (1) square inch per four thousand (4,000) Btus input if the air is drawn from outside of the structure. There shall be two (2) combustion air vent openings in each furnace room, one (1) located at the lower level and the other at the upper level. **Combustion air or return air vents shall not penetrate the rated or smoke enclosure.**

(K) One (1) combustion air vent opening shall be permitted if the vent opening communicates directly to the outside of the structure. This opening shall be one (1) square inch per three thousand (3,000) Btus input of the total gas appliances located in this room. The gas appliances must **be installed per the manufacturer's instructions with proper clearance or** have a **minimum** clearance *[around them,]* of one inch (1") from the sides and back, and six inches (6") from the front of the unit.

(L) Air conditioning, heating, ventilating ductwork, and related equipment shall be installed in a safe manner and be in good operating condition as determined by the *[state fire marshal]* **Division of Fire Safety** inspector.

(N) All elevators shall be inspected **bi-**annually by a state licensed elevator inspector and shall obtain an annual state operating permit form from the Division of Fire Safety and post it as required.

(8) Electrical Services.

(A) Electrical wiring shall be installed and maintained in good working order. If the *[state fire marshal]* **Division of Fire Safety** considers the wiring to be unsafe for the occupants or if it is installed improperly, an inspection by a licensed electrician may be required prior to fire safety approval. The inspection by the licensed electrician shall be based on National Fire Protection Association, Chapter 70, *National Electrical Code*.

(B) No electrical extension cords will be allowed, unless approved in writing by the *[state fire marshal]* **Division of Fire Safety**. Extension cords shall not be permanently affixed to the structure or replace permanent wiring. Exception: The use of UL approved fused power surge strips is acceptable.

*AUTHORITY: section 630.655, RSMo [2000] **2016**. Original rule filed Sept. 5, 2003, effective April 30, 2004. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 1—Organization

PROPOSED AMENDMENT

10 CSR 10-1.010 General Organization. The commission proposes to amend subsections (3)(B) and (3)(C). If the commission adopts this rule action, the department does not intend to submit this rule amendment to the U.S. Environmental Protection Agency because the rule is administrative, and the rule has never been approved as part of the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule provides a description of the organization and general methods and scope of operation of the Missouri Air Conservation Commission and the Air Pollution Control Program of the Missouri Department of Natural Resources and provides for public information and participation. This amendment will remove the unnecessary uses of restrictive words. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 and the public hearing testimony for this rulemaking.

(3) General Provisions.

(B) Organization and Operation.

1. Air Conservation Commission. The seven (7) member commission is the state's governing body for the control, abatement, and prevention of air pollution (643.030 and 643.040, RSMo) having authority (643.050, 643.055, 643.225, and 643.305, RSMo) to—

A. Adopt, promulgate, amend, and rescind rules;

B. Establish air quality control regions;

C. Require submission of relevant information;

D. Conduct and hold hearings upon appeals from orders, permit denials, and other actions of the director, settle compliance disputes at public hearings before the commission, or refer alleged violations to the county prosecutor or attorney general;

E. Develop facts, make investigations, and make orders and determinations;

F. Prepare and develop a comprehensive plan for the prevention, abatement, and control of air pollution, including emergency alert procedures;

G. Grant authority to political subdivisions to control air pollution;

H. Grant, modify, and revoke exceptions and variances to rules; and

I. Suspend the order of rulemaking when necessary for public health, safety, and welfare prior to filing the final order of rulemaking.

2. Director. The director of the Department of Natural Resources, serving at the pleasure of the governor, or the director's authorized representative, has the responsibility and the authority (643.060, RSMo) to—

A. Employ staff and consultants as necessary to carry out the Missouri Air Conservation Law;

B. Accept, receive, and administer grants, gifts, or other funds from public and private agencies;

C. Receive, budget, and expend appropriated moneys;

D. Arrange, notify, attend, and record all meetings of the Missouri Air Conservation Commission (MACC);

E. Investigate complaints, issue abatement orders, recommend that the MACC request legal action be taken by the attorney general under 643.090.2, RSMo, recommend legal action be taken by the attorney general under 643.090.2, RSMo, and enforce provisions of the Missouri Air Conservation Law;

F. Receive and act upon reports, plans, specifications, and permit applications submitted under rules promulgated by MACC;

G. Receive and investigate petitions for variances and submit recommendations to MACC;

H. Carry out the directions of MACC between meetings including conducting inspections and investigations, obtaining and assembling data, and preparing reports;

I. Submit revisions of the State Implementation Plan (SIP) to the United States Environmental Protection Agency (EPA) for approval; and

J. Enact air pollution emergency alert procedures.

3. Staff director. The staff director of the Air Pollution Control Program of the Department of Natural Resources serves at the pleasure of the commission and handles the day-to-day matters, including all responsibilities delegated to the director's authorized representative.

4. Air Pollution Control Program. The program is divided into five (5) sections with the main task descriptions listed below—

A. The Fiscal and Budget Section—

(I) Serves as human resource liaison and training coordinator;

(II) Oversees sunshine request responses and record management;

(III) Prepares annual program budget;

(IV) Coordinates proposed legislation and fiscal note responses at the department's request;

(V) Processes all financial transactions for procurement, deposits, collections, and payroll;

(VI) Manages the cash accounts;

(VII) Administers grants; and

(VIII) Maintains physical inventory and fixed assets;

B. The Compliance and Enforcement Section—

(I) Provides compliance assistance to regulated entities;

(II) Coordinates with and provides oversight of the regional offices and the local air pollution control agencies in matters of compliance and enforcement;

(III) Administers an asbestos program *[as required]*;

(IV) Administers a gasoline vapor recovery program *[as required]*;

(V) Administers a motor vehicle inspection/maintenance program *[as required]*;

(VI) Oversees source compliance testing;

(VII) Resolves violations through out-of-court settlements or orders with the assistance of the attorney general's office or the department's legal counsel;

(VIII) Requests approval from MACC for referral to the attorney general's office for those violations in which a settlement was not achieved; and

(IX) Provides technical reviews and recommendations for variance requests to MACC;

C. The Air Quality Analysis Section—

(I) Develops and quality-assures the point, area, and mobile source emission inventory for EPA National Emissions Inventory (NEI) submittal and program use;

(II) Coordinates with the Environmental Services Program and local air pollution control agencies when applicable on establishing and maintaining ambient air monitoring sites and collecting ambient air data;

(III) Develops and implements the annual Monitoring Network Plan and coordinates Ambient Air Monitoring Network Reviews;

(IV) Reviews and approves permit applicant ambient air quality monitoring Quality Assurance Project Plans (QAPPs);

(V) Conducts and provides emissions and ambient air quality analysis for other sections in the program;

(VI) Updates and maintains the program's air quality monitoring, emissions, and other databases; and

(VII) Develops risk assessment levels in support of the Title V program for review and approval by the Department of Health and Senior Services;

D. The Air Quality Planning Section—

(I) Maintains state air rules and Missouri SIP for consistency with the latest federal and state requirements;

(II) Develops, tracks, and implements rulemakings for new rules, amendments to rules, and rescissions of rules;

(III) Develops, tracks, and implements SIP revisions;

(IV) Conducts air quality modeling *[required]* to support rule and SIP actions;

(V) Implements public participation requirements of state and federal laws for rulemakings and SIP revisions;

(VI) Coordinates rulemakings and SIP actions with the secretary of state, EPA, other regulatory bodies, private industries, environmental interests, and other stakeholders; and

(VII) Establishes mobile source emissions budgets and participates in inter-agency consultation processes in accordance with federal transportation conformity requirements to ensure transportation activities are consistent with air quality goals; and

E. The Permits Section—

(I) Receives, evaluates, and makes recommendations to the director to approve, approve with conditions, or deny applications for construction permits;

(II) Provides technical support to legal counsel for permits issued and appealed by an applicant or citizen;

(III) Reviews construction permits prepared by local air pollution control agencies;

(IV) Processes operating permit applications, amendments, and modifications in a timely manner according to the rules and requirements;

(V) Processes relocation notification for portable equipment; and

(VI) Maintains the Missouri Clean Air Act Title V Program to ensure continued authorization of the program in Missouri.

(C) Public Information. The Air Pollution Control Program provides information to the public as follows:

1. Publish a notice in the Jefferson City, Missouri newspaper to provide information on how the public may review and provide comment on draft rule text and Regulatory Impact Reports for a period of at least sixty (60) days;

2. Post public hearing notices for rule and SIP actions at least thirty (30) days prior to public hearing on the Air Pollution Control Program's website and send via email to established program distribution list that includes *[required]* parties and other interested stakeholders. These notices provide information on timing of proposed MACC actions and how the public may participate in all rulemaking and SIP actions. Contact the Air Pollution Control Program Air Quality Planning Section Chief to be added to the email distribution list;

3. Publish in the *Missouri Register*—

A. Proposed rule actions at least thirty (30) days prior to a public hearing; and

B. Final rule actions adopted by MACC with recognition of public hearing comments;

4. Provide construction and operating permit notices as described in 10 CSR 10-6.060 Construction Permits Required and 10 CSR 10-6.065 Operating Permits; **and**

[5. Present any revision to department-supplied forms to the regulated community for a forty-five (45)-day comment period; and]

*[6.]***5.** Make all records retained for or by the Air Pollution Control Program available for public inspection and copying by any person, except for records which *[either are required to be or which may be kept]* **are designated as** confidential under Missouri law.

*AUTHORITY: sections 643.050, **643.055,** and 643.225, RSMo*

*[Supp. 2012, and section 643.055, RSMo 2000] **2016**. Original rule filed May 12, 1976, effective Oct. 11, 1976. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 27, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., May 31, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., June 7, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

PROPOSED AMENDMENT

10 CSR 10-6.180 Measurement of Emissions of Air Contaminants. The commission proposes to amend the purpose and sections (1) and (2) and add sections (3), (4), and (5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: The purpose of this rulemaking is to comply with Executive Order 17-03 criteria and will remove the unnecessary use of restrictive words. This rulemaking will also restructure the rule into the standard rule organization format and add definitions specific to this rule. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03.

*PURPOSE: This rule [provides that upon request any source shall complete, or have completed, tests of emissions or, at the option of the agency, make the source available for tests of emissions] **allows the director to obtain air contaminant emissions data upon request**.*

(1) *[Responsible Persons to Have Tests Made. The director may require any person responsible for the source of emission of air contaminants to make or have made tests to determine the quantity or nature, or both, of emission of air contaminants from the source. The director may specify testing methods to be used in accordance with good professional practice. The director may observe the testing. All tests shall be conducted by reputable, qualified personnel. The director shall be given a copy of the test results in writing and signed by the person responsible for the tests.]* **Applicability. This rule applies to all sources and persons responsible for the emission of air contaminants throughout the state of Missouri.**

(2) *[Director May Make Tests. The director may conduct tests of emissions of air contaminants from any source. Upon request of the director, the person responsible for the source to be tested shall provide necessary ports in stacks or ducts and other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants.]* **Definitions.**

(A) Air contaminant—Any particulate matter or any gas or vapor or any combination of them.

(B) Director—Director of the Missouri Department of Natural Resources or a representative designated to carry out the duties as described in 643.060, RSMo.

(C) Facility—All contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.

(D) Qualified personnel—A reputable person or group possessing the necessary experience, knowledge, education, training, or certification to accurately conduct a given emission test.

(E) Source—Any governmental, institutional, commercial, or industrial structure, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the Clean Air Act (CAA).

(3) General Provisions.

(A) The director may require any person or owner/operator of a source responsible for the emission of air contaminants to conduct tests to determine the quantity or nature, or both, of their air contaminant emissions.

1. The director may specify test methods to be used and observe testing as it is performed.

2. All tests must be performed by qualified personnel.

3. The director shall be provided a copy of the test results in writing and signed by the person responsible for the tests.

(B) The director may conduct tests of emissions of air contaminants from any source. Upon the director's request, the person responsible for the source to be tested shall provide necessary ports in stacks or ducts and other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants.

(4) Reporting and Record Keeping. *(Not Applicable)*

(5) Test Methods. *(Not Applicable)*

*AUTHORITY: section 643.050, RSMo [Supp. 1992] **2016**. Original rule filed Aug. 2, 1990, effective Dec. 31, 1990. Amended: Filed March 27, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., May 31, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level,

Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., June 7, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 24—Hazardous Substance Emergency Response Office
Chapter 1—Organization

PROPOSED AMENDMENT

10 CSR 24-1.010 *[General Organization]* ***Authority and Notification Procedures***. The department is amending the title and purpose to more accurately describe the rule, subsection (2)(A), adding subsection (1)(A) to section (1), deleting subsections (1)(B), (2)(B), (2)(C), and (2)(D), and renumbering as needed.

PURPOSE: This rulemaking will accomplish amending 10 CSR 24-1.010 in compliance with executive order 17-03 and is being undertaken per the Red Tape Reduction Initiative. This amendment will eliminate three (3) of three (3) restrictive words identified by the Red Tape Initiative, will maintain language required by 260.500-260.550, RSMo, and eliminates duplication with statute.

PURPOSE: This rule [explains] ***provides*** *the [organization and responsibilities]* ***source*** *of* ***authority and contact information for*** *the Hazardous Substance Emergency Response Office. [Also explained is how to obtain additional information regarding these activities and where to make submittals to this office.]*

(1) The Department of Natural Resources is authorized under sections 260.500-260.550, RSMo to administer the state's Hazardous Substance Emergency Response Office. The director of the Department of Natural Resources appoints a director and staff who provide day-to-day operation of the Hazardous Substance Emergency Response Office.

[(A)] Among its operations, the Hazardous Substance Emergency Response Office performs the following administrative and technical functions: develop and adopt rules relating to hazardous substance emergencies; develop and update the state Hazardous Substance Emergency Response plan in cooperation with other state agencies and other affected persons; respond to, investigate, document**,** and take action regarding hazardous substance emergencies in accordance with sections 260.500-260.550, RSMo; provide technical assistance to other state agencies, to political subdivisions of the state**,** and to other persons upon request for the prevention, control**,** and response to hazardous substance emergencies; enter into agreements with state, local**,** and federal agencies**,** and with other persons as necessary to develop and implement the Hazardous Substance Emergency Response Plan and to implement sections 260.500-260.550, RSMo; monitor the statewide telephone used to notify Missouri whenever a hazardous substance emergency occurs; notify appropriate agencies of hazardous substance emergencies; and cooperate with appropriate units of government and other persons to prevent the occurrence and improve response to hazardous substance emergencies.

[(B) Requests for copies of rules, reports of incident investigations, technical information and assistance and any other submissions are to be made to the department's Hazardous Substance Emergency Response Office, Environmental Services Program, P.O. Box 176, Jefferson City, MO 65102. The telephone number during office hours is (573) 526-3348. For emergencies, the Hazardous Substance Emergency Response Office can be contacted any time at (573) 634-2436.]

(2) Information.

(A) The mailing address for the Hazardous Substance Emergency Response Office is: Missouri Department of Natural Resources, P*[.]*O*[.]* Box 176, Jefferson City, MO 65102.

[(B) The Hazardous Substance Emergency Response Office files, except trade secrets as provided for in section 260.550, RSMo, are public information and are located at 2710 West Main Street, Jefferson City, MO 65109.

(C) Anyone wishing to review information in the Hazardous Substance Emergency Response Office files is requested to make an appointment by calling (573) 526-3348. There is no fee for reviewing file information. There is a copying fee if copies of file information are made, and it must be paid by check, money order or exact change.

(D) Any request for information shall be in writing. All requests for information shall be available during normal business hours for inspection by the public.]

*[(E)]***(B)** Nonemergency information can be obtained by contacting the department at the post office box listed previously or by calling (573) 526-3348.

*[(F)]***(C)** The number to contact the department for emergency release notifications under section 260.505, RSMo is (573) 634-2436. This is for emergencies only.

AUTHORITY: section 260.520, RSMo [(Supp. 1995)] ***2016****. Original rule filed Nov. 30, 1983, effective April 12, 1984. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 29, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, PO BOX 176; 1101 Riverside Drive, Jefferson City, MO 65102-0176. To be considered, comments must be received by June 27, 2018. A public hearing is scheduled for June 20, 2018, at 1:00PM, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 19—Electronics Scrap Management

PROPOSED AMENDMENT

10 CSR 25-19.010 Electronics Scrap Management. The department is deleting sections (1)–(5) and amending new section (1).

PURPOSE: This rule is being amended to remove portions of the rule that are no longer needed because entities subject to its requirements have economic and proprietary interests in establishing and maintaining recycling programs for the subject electronics. The burdens of these portions of the rule are not producing a corresponding environmental benefit.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated

by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

[(1) Definitions. The following terms, when used in this rule, have the following meanings:

(A) Brand—The name, symbol, logo, trademark, or other information that identifies a whole product rather than the components of the product;

(B) Consumer—An individual who uses computer equipment that is purchased primarily for personal or home business use;

(C) Covered equipment—Electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions. Equipment includes a desktop, notebook, or laptop computer, including a computer monitor or other display device that does not contain a tuner, and the accompanying keyboard and mouse associated with the computer of the same manufacturing brand.

1. Desktop computer—A computer with a main unit that is intended to be located in a permanent location, often on a desk or on the floor.

2. Notebook or laptop computer—A computer with an incorporated video display greater than four inches (4") in size measured diagonally and can be carried as one (1) unit by an individual. A notebook computer is sometimes referred to as laptop computer or tablet computer;

(D) Manufacturer—A person, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, or any other legal entity whatever which is recognized by law as the subject of rights and duties—

1. Who manufactures or manufactured covered equipment under a brand that—

A. The person owns or owned; or

B. The person is or was licensed to use, other than under a license to manufacture covered equipment for delivery exclusively to or at the order of the licensor;

2. Who sells or sold covered equipment manufactured by others under a brand that—

A. The person owns or owned; or

B. The person is or was licensed to use, other than under a license to manufacture covered equipment for delivery exclusively to or at the order of the licensor;

3. Who manufactures or manufactured covered equipment without affixing a label with a brand;

4. Who manufactures or manufactured covered equipment to which the person affixes or affixed a label with a brand that—

A. The person does not or has not owned; or

B. The person is not or was not licensed to use; or

5. Who imports or imported covered equipment manufactured outside the United States into the United States, unless at the time of importation the company or licensee that sells or sold the covered equipment to the importer has or had assets or a presence in the United States sufficient to be considered the manufacturer;

(E) Recycler—A person or group that engages in recycling of covered equipment;

(F) Recycling—The transforming or remanufacturing of unwanted covered equipment into usable or marketable materials for use other than landfill disposal or incineration. Recycling does not include energy recovery or energy generation by means of combusting of unwanted covered equipment with or without other waste;

(G) Retailer—A person who owns or operates a business that sells new computer equipment, including sales through a sales outlet, the Internet, or a catalog, whether or not the seller has a physical presence in this state;

(H) Reuse—The use of a used product or part of a used product, which has been recovered or diverted from the solid waste stream, for its original intended purpose; and

(I) Tuner—An electronic device or circuit used to select signals at a specific frequency for amplification and conversion to pictures or sound.

(2) Applicability.

(A) The collection, recycling, and reuse provisions of this rule apply exclusively 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.

(B) This rule does not apply to—

1. A television, any part of a motor vehicle, an automated typewriter or typesetter, a portable handheld calculator, a personal digital assistant, a printer, or a telephone; or

2. A consumer's lease of computer equipment or a consumer's use of computer equipment under a lease agreement.

(C) This rule applies to the following persons, as defined in this rule:

1. Manufacturers;

2. Retailers;

3. Consumers; and

4. Recyclers.

(D) Facilities involved, under this rule, in the collection of used covered equipment for recycling or the recycling of used covered equipment must be in compliance with this rule.

(3) Manufacturer Responsibility.

(A) Before a manufacturer may offer covered equipment for sale in this state, the manufacturer shall—

1. Adopt and implement a recovery plan approved by the department;

2. Affix a permanent, readily visible label to the covered equipment with the manufacturer's brand(s); and

3. Comply with reporting requirements of this rule.

(B) The recovery plan shall be submitted on forms provided by the department and shall enable a consumer to recycle covered equipment without paying a separate fee at the time of recycling and must include provisions for—

1. The manufacturer's collection from a consumer of any used covered equipment labeled with the manufacturer's brand(s);

2. Recycling or reuse of covered equipment collected under paragraph 1. of this subsection, including information for the consumer on how and where to return the covered equipment labeled with the manufacturer's brand(s) at no cost to the consumer. This information must include, at a minimum, an Internet link that consumers can access to find out specifically how and where to return the covered equipment labeled with the manufacturer's brand(s). If the Internet link is going to change, the manufacturer shall notify the department of what the new Internet link will be at least thirty (30) days in advance;

3. Method or methods of collection of covered equipment that is—

A. Reasonably convenient and available to consumers in this state; and

B. Designed to meet the collection needs of consumers in this state;

4. A statement that there will be no separate fee required to be paid by the consumer for collection service;

5. Contact information of authorized collection providers;

6. Identifying processes and methods used to recycle covered equipment and the facility(ies) location(s), including the identification of which recycling standard of subsection (7)(B) each facility will implement. This would include information that enables the department to determine if the recycling facility is following standards identified in the law and regulation;

7. Describing the public information campaign for consumers;

8. Graphically representing any brand(s) sold by the manufacturer; and

9. A copy of an existing or proposed web page that provides the recycling information to the consumer.

(C) Reasonably convenient collection of covered equipment generally reflects the level of effort exerted for the purchase of the covered equipment. The following collection methods, alone or combined, meet the convenience requirements of this section:

1. A system by which the manufacturer or the manufacturer's designee offers the consumer a system for returning covered equipment by mail, without the consumer having to pay any mailing, shipping, handling, or any other cost directly related to mailing;

2. A system by which the manufacturer or the manufacturer's designee offers the consumer direct pick up of the covered equipment;

3. A system using physical collection sites or alternate collection services that the manufacturer or the manufacturer's designee keeps open and staffed and to which the consumer may return covered equipment. At a minimum, there shall be one (1) collection site located in each city or town with a population greater than ten thousand (10,000);

4. A system using a minimum of one (1) collection event per year held by the manufacturer or the manufacturer's designee at which the consumer may return covered equipment. Collection event(s) shall, at a minimum, be located in each city or town with a population of greater than five thousand (5,000) or per county or per solid waste district;

5. A system by which the manufacturer or the manufacturer's designee offers a designated drop-off facility within a thirty (30)-mile radius of retailer and to which the consumer may return covered equipment;

6. A system by which the manufacturer or the manufacturer's designee offers a designated local recycler within a thirty (30)-mile radius of retailer and to which the consumer may return covered equipment; or

7. Other method approved by the department.

(D) Collection services under this section may use existing collection and consolidation infrastructure for handling covered equipment and may include electronic recyclers and repair shops, recyclers of other commodities, reuse organizations, not-for-profit corporations, retailers, recyclers, and other suitable operations. Other suitable operations include, but are not limited to, local governments and solid waste management districts as established in section 260.305, RSMo. Collection services may include systems jointly managed by a group of manufacturers, electronic recyclers and repair shops, recyclers of other commodities, reuse organizations, not-for-profit corporations, retailers, recyclers, and other suitable operations. If a manufacturer or its designee offers a mail-back system as described in paragraph (3)(C)1. of this rule, either individually or by working together with a group of manufacturers or by working with others, it shall be deemed to meet the convenience requirements of this section.

(E) The manufacturer—

1. Shall include collection, recycling, and reuse information on the manufacturer's publicly available Internet site, including a list of all of the manufacturer's brands both in use and no longer in use;

2. Shall provide to the department a recovery plan in accordance with this rule and notification of the date by which the manufacturer has, or will have, a compliant collection program. In order to be eligible for the department's list of manufacturers that have approved recovery plans and have notified the department of the date by which they have, or will have, a compliant collection program, a manufacturer must submit its recovery plan and notification no later than July 1, 2010; and

3. May include collection, recycling, and reuse information in the packaging or in other materials that accompany the manufacturer's covered equipment when the covered equipment is sold.

(F) Information about collection, recycling, and reuse on a manufacturer's publicly available Internet site does not constitute a determination by the department that the manufacturer's recovery plan or actual practices are in compliance with this rule or other law.

(G) On forms provided by the department, each manufacturer that has submitted a recovery plan shall submit an annual recycling report to the department by January 31 of each year after submitting a recovery plan that includes—

1. The weight of covered equipment collected, recycled, and reused during the preceding calendar year;

2. Documentation verifying the collection, recycling, and reuse of that covered equipment in a manner that complies with federal, state, and local laws; and

3. Any changes to their recovery plan.

(H) If more than one (1) person is a manufacturer of a certain brand of covered equipment, any of those persons may assume responsibility for and satisfy the obligations of a manufacturer under this rule for that brand. If none of those persons assumes responsibility or satisfies the obligations of a manufacturer for the covered equipment of that brand, the department may consider any of those persons to be the responsible manufacturer for purposes of this rule.

(I) The obligations under this rule of a manufacturer who manufactures or manufactured covered equipment, or sells or sold covered equipment manufactured by others, under a brand that was previously used by a different person in the manufacture of the covered equipment, extend to all covered equipment bearing that brand regardless of its date of manufacture.

(4) Retailer Responsibilities.

(A) A person who is a retailer of covered equipment shall not sell or offer to sell new covered equipment in this state unless the equipment is labeled with the manufacturer's brand(s) and the manufacturer is included on the department's list of manufacturers that have approved recovery plans and have notified the department that they have a compliant collection program.

(B) Retailers may go to the department's Internet site and view all manufacturers that are listed as having approved recovery plans and having notified the department that they have a compliant collection program. Covered equipment from manufacturers on that list may be sold in or into the state.

(C) A retailer is not required to collect covered equipment for recycling or reuse under this rule unless the retailer is also a manufacturer as defined in this rule. This does not mean that a retailer who is also a manufacturer has to collect covered equipment at a retail outlet.

(D) A retailer may assume the responsibility of the manufacturer if the retailer wants to sell covered equipment of a manufacturer that does not have an approved recovery plan.]

[(5) Sound Environmental Management.

(A) Covered equipment collected under this rule must be recycled or reused in a manner that complies with federal, state, and local law.]

*[(B)]***(1)** The department adopts, as standards for recycling or reuse of covered equipment under this rule, the standards in "Electronics Recycling Operating Practices" as approved by the board of directors of the Institute of Scrap Recycling Industries (ISRI), Inc., April 25, 2006 **and published by Institute of Scrap Recycling, Inc., Suite 400, Washington, DC, 20005**, and "Responsible Recycling (R2) Practices for Use In Accredited Certification Programs for Electronics Recyclers" issued by the U.S. Environmental Protection Agency**, 1200 Pennsylvania Avenue NW, Washington, DC 20460, and they are 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.

*AUTHORITY: sections 260.1053, 260.1059, 260.1062, 260.1065, 260.1074, 260.1089, and 260.1101, RSMo [Supp. 2009] **2016**. Emergency rule filed June 19, 2009, effective July 1, 2009, expired Feb. 25, 2010. Original rule filed June 19, 2009, effective April 30, 2010. Amended: Filed March 29, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Department of Natural Resources will hold a public hearing on this rule action and others beginning at 1:00 p.m. on June 20, 2018, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 27, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 27, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation] Missouri Mining* Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMMENDMENT

10 CSR 40-3.060 Requirements for the Disposal of Excess Spoil. The director is amending the division title and section (1) and deleting sections (2)–(4).

PURPOSE: This amendment incorporates by reference the federal regulations that sets forth the requirements for the disposal of excess spoil pursuant to sections 444.810 and 444.855.2(22), RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) *[General Requirements.]* **Permanent program performance standards—disposal of excess spoil requirements set forth in 30 CFR Part 780.35, as in effect on July 1, 2010, are incorporated by reference in this rule. Copies may be obtained by contacting the U.S. Government Publishing Office, PO Box 979050, St. Louis, MO 63197-9000 or online at https://www.gpo.gov. This rule does not incorporate any subsequent amendments or additions.**

[(A) Spoil not required to achieve the approximate original contour within the area where overburden has been removed shall be hauled or conveyed to and placed in designated disposal areas within a permit area, within a time approved by the director in the permit and plan, if the disposal areas are authorized for those purposes in the approved permit and plan in accordance with sections (1)—(4) of this rule. The spoil shall be placed in a controlled manner to ensure that—

1. Leachate and surface runoff from the fill will not degrade surface or ground waters or exceed the effluent limitations of 10 CSR 40-3.040(2);

2. The fill is stable; and

3. The land mass designated as the disposal area is suitable for reclamation and revegetation compatible with the natural surroundings.

(B) The fill and appurtenant structures shall be designed using recognized professional standards, certified by a registered professional engineer experienced in the design of earth and rock fills and approved in the permit and plan.

(C) All vegetative and organic materials shall be removed from the disposal area and the topsoil shall be removed, segregated, and stored or replaced under 10 CSR 40-3.030(1)—(5). If approved in the permit and plan, organic material may be used as mulch or may be included in the topsoil to control erosion, promote growth of vegetation, or increase the moisture retention of the soil.

(D) Slope protection shall be provided to minimize surface erosion at the site. Diversion design shall conform with the requirements of 10 CSR 40-3.040(3). All disturbed areas, including diversion ditches that are not riprapped, shall be vegetated upon completion of construction.

(E) If placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the commission, the spoil could be placed in compliance with all the requirements of this law and shall be placed, where possible, upon or above, a natural terrace, bench, or berm, if this placement provides additional stability and prevents mass movement.

(F) The spoil shall be hauled or conveyed and placed in horizontal lifts in a controlled manner, not exceeding four feet (4') in thickness; concurrently compacted as necessary to ensure mass stability and prevent mass movement, covered and graded to allow surface and subsurface drainage to be compatible with the natural surroundings and ensure a long-term static safety factor of one and five tenths (1.5). The commission or director may approve a design which incorporates placement of excess spoil in horizontal lifts other than four feet (4') in thickness when it is demonstrated by the operator and certified by a qualified registered professional engineer that the design will ensure the stability of

the fill and will meet all other applicable requirements.

(G) The final configuration of the fill must be suitable for postmining land uses approved in accordance with 10 CSR 40-3.130(1), except that no depressions or impoundments shall be allowed on the completed fill.

(H) Excess spoil that is acid- or toxic-forming or combustible shall be adequately covered with nonacid, nontoxic, and noncombustible material, or treated to control the impact on surface and ground water in accordance with 10 CSR 40-3.040, to prevent sustained combustion and to minimize adverse effects on plant growth and the approved postmining land use.

(I) Terraces may be utilized to control erosion and enhance stability if approved in the permit and plan and consistent with 10 CSR 40-3.110(2)(B).

(J) Where the slope in the disposal area exceeds 1v:2.8h (36%), or a lesser slope as may be designated in the permit or plan based on local conditions, keyway cuts (excavations to stable bedrock) or rock toe buttresses shall be constructed to stabilize the fill. Where the toe of the spoil rests on a downslope, stability analyses including, but not limited to, strength parameters, pore pressures, and long-term seepage conditions, shall be performed to determine the size of rock toe buttresses and keyway cuts and in accordance with 10 CSR 40-6.050(17).

(K) Fill Inspection.

1. A registered professional engineer or other qualified professional specialist under the direction of a registered professional engineer, approved in the permit and plan and experienced in the construction of earth and rockfill embankments, shall inspect the fill for stability at least quarterly throughout construction and during the following critical construction periods:

A. Removal of all organic material and topsoil;

B. Placement of underdrainage systems;

C. Installation of surface drainage systems;

D. Placement and compaction of fill materials; and

E. Revegetation.

2. Within two (2) weeks after each inspection, the registered professional engineer shall provide the director with a certified report stating that the fill has been constructed as specified in the design approved in the permit and plan. The report shall include appearances of instability, structural weakness and other hazardous conditions.

3. Certified report.

A. The certified report on the drainage system and protective filters shall include color photographs taken during and after construction, but before underdrains are covered with excess spoil. If the underdrain system is constructed in phases, each phase shall be certified separately.

B. Where excess durable rock spoil is placed in single or multiple lifts so that the underdrain system is constructed simultaneously with excess spoil placement by the natural segregation of dumped materials, color photographs shall be taken of the underdrain as the underdrain system is being formed.

C. The photographs accompanying each certified report shall be taken in adequate size and number with enough terrain or other physical features of the site shown to provide a relative scale to the photographs and to specifically and clearly identify the site.

4. A copy of the report shall be retained at the minesite.

(L) Coal processing wastes shall not be disposed of in head-of-hollow or valley fills and may only be disposed of in other excess spoil fills, if the waste is—

1. Placed in accordance with 10 CSR 40-3.080(4);

2. Demonstrated to be nontoxic- and nonacid-forming; and

3. Demonstrated to be consistent with the design stability of the fill.

(M) If the disposal area contains springs, natural or manmade watercourses, or wet weather seeps, an underdrain system consisting of durable rock shall be constructed from the wet areas in a manner that prevents infiltration of the water into the spoil material. The underdrain system shall be protected by an adequate filter and shall be designed and constructed using standard geotechnical engineering methods.

(N) The foundation and abutments of the fill shall be stable under all conditions of construction and operation. Sufficient foundation investigation and laboratory testing of foundation materials shall be performed in order to determine the design requirements for stability of the foundation. Analyses of foundation conditions shall include the effect of underground mine workings, if any, upon the stability of the structure.

(O) Excess spoil may be returned to underground mine workings, but only in accordance with a disposal program approved in the permit and plan and Mine Safety and Health Administration (MSHA) upon the basis of a plan submitted under 10 CSR 40-6.120(17).

(2) Valley Fills. Valley fills shall meet all of the requirements of section (1) of this rule and the additional requirements of this section.

(A) The fill shall be designed to attain a long-term static safety factor of one and five-tenths (1.5) based upon data obtained from subsurface exploration, geotechnical testing, foundation design, and accepted engineering analyses.

(B) A subdrainage system for the fill shall be constructed in accordance with the following:

1. A system of underdrains constructed of durable rock shall meet the requirements of paragraph (2)(B)4. of this rule and shall—

A. Be installed along the natural drainage system;

B. Extend from the toe to the head of the fill; and

C. Contain lateral drains to each area of potential drainage or seepage;

2. A filter system to insure the proper functioning of the rock underdrain system shall be designed and constructed using standard geotechnical engineering methods;

3. In constructing the underdrains, no more than ten percent (10%) of the rock may be less than twelve inches (12") in size and no single rock may be larger than twenty-five percent (25%) of the width of the drain. Rock used in underdrains shall meet the requirements of paragraph (2)(B)4. of this rule. The minimum size of the main underdrain shall be—

Total Amount of Fill Material	*Predominant Type of Fill Material*	*Minimum Size of Drain in Feet*	
		Width	*Height*
Less than 1,000,000 yd³	*Sandstone*	*10*	*4*
Do	*Shale*	*16*	*8*
More than 1,000,000 yd³	*Sandstone*	*16*	*8*
Do	*Shale*	*16*	*16*

4. Underdrains shall consist of nondegradable, nonacid- and nontoxic-forming rock, such as natural sand and gravel, sandstone, limestone, or other durable rock that will not slake in water and will be free of coal, clay, or shale.

(C) Spoil shall be hauled or conveyed and placed in a controlled manner and concurrently compacted, as specified in

the permit and plan, in lifts no greater than four feet (4') or less, if required in the permit and plan, to—

1. Achieve the densities designed to ensure mass stability;

2. Prevent mass movement;

3. Avoid contamination of the rock underdrain or rock core; and

4. Prevent formation of voids.

(D) Surface water runoff from the area above the fill shall be diverted away from the fill and into stabilized diversion channels designed to safely pass the runoff from a one hundred- (100-) year, twenty-four- (24-) hour precipitation or longer event specified in the permit and plan. Surface runoff from the fill surface shall be diverted through stabilized channels off the fill which will safely pass the runoff from the one hundred- (100-) year, twenty-four- (24-) hour precipitation event. Diversion design shall comply with the requirements of 10 CSR 40-3.040(3)(F).

(E) The tops of the fill and any terrace constructed to stabilize the face shall be graded no steeper than 1v:20h (5%). The vertical distance between terraces shall not exceed fifty feet (50').

(F) Drainage shall not be directed over the outslope of the fill.

(G) The outslope of the fill shall not exceed 1v:2h (50%). The permit and plan may require a flatter slope to control erosion and insure stability.

(3) Head-of-Hollow Fills. Disposal of spoil in the head-of-hollow fill shall meet all standards set forth in sections (1) and (2) of this rule and the additional requirements of this section.

(A) The fill shall be designed to completely fill the disposal site to the approximate elevation of the ridgeline. A rock-core chimney drain may be utilized instead of the subdrain and surface diversion system required for valley fills. If the crest of the fill is not approximately at the same elevation as the low point of the adjacent ridgeline, the fill must be designed as specified in section (2) of this rule, with diversion of runoff around the fill. A fill associated with contour mining placed at or near the coal seam, which does not exceed two hundred fifty thousand (250,000) cubic yards, may use the rock-core chimney drain.

(B) The alternative rock-core chimney drain system shall be designed and incorporated into the construction of head-of-hollow fills as follows:

1. The fill shall have, along the vertical projection of the main buried stream channel or rill, a vertical core of durable rock at least sixteen feet (16') thick which shall extend from the toe of the fill to the head of the fill, and from the base of the fill to the surface of the fill. A system of lateral rock underdrains shall connect this rock core to each area of potential drainage or seepage in the disposal area. Rocks used in the rock core and underdrains shall meet the requirements of subsection (2)(B) of this rule;

2. A filter system to ensure the proper functioning of the rock core shall be designed and constructed using standard geotechnical engineering methods; and

3. The grading may drain surface water away from the outslope of the fill and toward the rock core. The maximum slope of the fill shall be 1v:33h (3%). Instead of the requirements of subsection (1)(G) of this rule, a drainage pocket may be maintained at the head of the fill during and after construction, to intercept surface runoff and discharge the runoff through or over the rock drain, if stability of the fill is not impaired. In no case shall this pocket or sump have a potential for impounding more than ten thousand (10,000) cubic feet of water. Terraces on the fill shall be graded with the three percent to five percent (3%—5%) grade toward the fill and a one percent (1%) slope toward the rock core.

(C) The drainage control system shall be capable of safely passing the runoff from a one hundred- (100-) year, twenty-four- (24-) hour precipitation event or larger event specified in the permit and plan.

(4) Durable Rock Fills. In lieu of the requirements of sections (2) and (3) of this rule, approval may be given in the permit and plan for alternate methods for disposal of hard rock spoil, including fill placement by dumping in a single lift, on a site-specific basis, provided the services of a registered professional engineer experienced in the design and construction of earth and rockfill embankments are utilized and provided the requirements of this section and of section (1) of this rule are met. For this section, hard rock spoil shall be defined as rockfill consisting of at least eighty percent (80%) by volume of sandstone, limestone or other rocks that do not slake in water. Resistance of the hard rock spoil to slaking shall be determined by using the slake index and slake durability tests in accordance with guidelines and criteria established in the permit and plan.

(A) Spoil is to be transported and placed in a specified and controlled manner which will ensure stability of the fill.

1. The method of spoil placement shall be designed to ensure mass stability and prevent mass movement in accordance with the additional requirements of this section.

2. Loads of noncemented clay shale, clay spoil, or both, in the fill shall be mixed with hard rock spoil in a controlled manner to limit, on a unit basis, concentrations of noncemented clay shale and clay in the fill. The materials shall comprise no more than twenty percent (20%) of the fill volume as determined by tests performed by a registered professional engineer and approved in the permit and plan.

(B) Stability Analyses and Bank Design.

1. Stability analyses shall be made by the registered professional engineer. Parameters used in the stability analyses shall be based on adequate field reconnaissance, subsurface investigations, including borings and laboratory tests.

2. The embankment which constitutes the valley fill or head-of-hollow fill shall be designed with the following factors of safety:

Case	Design Condition	Minimum Factor of Safety
I	End of construction	1.5
II	Earthquake	1.1

(C) The design of a head-of-hollow fill shall include an internal drainage system which will ensure continued free drainage of anticipated seepage from precipitation, springs, or wet weather seeps.

1. Anticipated discharge from springs and seeps and due to precipitation shall be based on records, field investigations, or both, to determine seasonal variation. The design of the internal drainage system shall be based on the maximum anticipated discharge.

2. All granular material used for the drainage system shall be free of clay and consist of durable particles, such as natural sands and gravels, sandstone, limestone, or other durable rock, which will not slake in water.

3. The internal drain shall be protected by a properly designed and constructed filter system using standard geotechnical engineering methods.

(D) Surface water runoff from the areas adjacent to and above the fill shall not be allowed to flow onto the fill and shall be diverted into stabilized channels which are designed to safely pass the runoff from a one hundred- (100-) year, twenty-four- (24-) hour precipitation event. Diversion design

shall comply with the requirements of 10 CSR 40-3.040(3)(F).

(E) The top surface of the completed fill shall be graded so that the final slope after settlement will be no steeper than 1v:20h (5%) toward properly designed drainage channels in natural ground along the periphery of the fill. Surface runoff from the top surface of the fill shall not be allowed to flow over the outslope of the fill.

(F) Surface runoff from the outslope of the fill shall be diverted off the fill to properly designed channels which will safely pass a one hundred- (100-) year, twenty-four- (24-) hour precipitation event. Diversion design shall comply with the requirements of 10 CSR 40-3.040(3)(F).

(G) Terraces shall be constructed on the outslope if required for control of erosion or for roads included in the approved postmining land use plan. Terraces shall meet the following requirements:

1. The slope of the outslope between terrace benches shall not exceed 1v:2h (50%);

2. To control surface runoff, each terrace bench shall be graded to a slope of 1v:20h (5%) toward the embankment. Runoff shall be collected by a ditch along the intersection of each terrace bench and the outslope; and

3. Terrace ditches shall have a five percent (5%) slope toward the channels specified in subsection (4)(F) of this rule, unless steeper slopes are necessary in conjunction with approved roads.]

*AUTHORITY: sections 444.530 and 444.810, RSMo [2000] **2016**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation] Missouri Mining* Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMMENDMENT

10 CSR 40-3.170 *[Signs and Markers for]* **Underground Operations**. The director is amending the division title, rule title, and section (1), and deleting sections (2)–(7).

PURPOSE: This rule sets forth permanent performance requirements for underground coal mining in keeping with sections 444.810 and 444.890, RSMo incorporating by reference the appropriate federal regulations. This rule will amend 10 CSR 40-3.170, and supersede 10 CSR 40-3.180, 10 CSR 40-3.190, 10 CSR 40-3.200, 10 CSR 40-3.210, 10 CSR 40-3.220, 10 CSR 40-3.230, 10 CSR 40-3.240, 10 CSR 40-3.250, 10 CSR 40-3.260, 10 CSR 40-3.270, 10 CSR 40-3.280, 10 CSR 40-3.290, 10 CSR 40-3.300, and 10 CSR 40-3.310.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) *[Specifications. Signs and markers required under this chapter shall—]* **Permanent program performance standards—underground mining activities set forth in 30 CFR Part 817, as in effect on July 1, 2010, are incorporated by reference in this rule. Copies may be obtained by contacting the U.S. Government Publishing Office, PO Box 979050, St. Louis, MO 63197-9000 or online at https://www.gpo.gov. This rule does not incorporate any subsequent amendments or additions. Exceptions to 30 CFR Part 817 are modified as follows:**

(A) *[Be posted, maintained, and removed by the person who conducts the underground mining activities]* **Delete 30 CFR 817.10**; **and**

(B) *[Be of a uniform design throughout the activities that can be easily seen and read;]* **Delete 30 CFR 817.61(c)(1) and insert the following: (c) Blasters (1) All blasting operations shall be conducted under the direction of a blaster certified by the director.**

[(C) Be made of durable material; and

(D) Conform to local laws and regulations.

(2) Duration of Maintenance. Signs and markers shall be maintained during all activities to which they pertain.

(3) Mine and Permit Identification Signs.

(A) Identification signs shall be displayed at each point of access from public roads to areas of surface operations and facilities on permit areas for underground mining activities.

(B) Signs will show the name, business address, and telephone number of the person who conducts underground mining activities and the identification number of the current permit authorizing underground mining activities.

(C) Signs shall be retained and maintained until after the release of all bonds for the permit area.

(4) Perimeter Markers. Each person who conducts underground mining activities shall clearly mark the perimeter of all areas affected by surface operations or facilities before beginning mining activities.

(5) Bonded Area Markers. Where the permit area is bonded incrementally, the area bonded shall be clearly marked before the beginning of surface mining activities.

(6) Buffer Zone Markers. Buffer zones, as defined in 10 CSR 40-8.010(1)(A)13, required by 10 CSR 40-3.200(17) shall be clearly marked to prevent disturbance by surface operations and facilities.

(7) Topsoil Markers. Where topsoil or other vegetation supporting material is segregated and stockpiled as required under 10 CSR 40-3.190(3), the stockpiled material shall be clearly marked.]

*AUTHORITY: section 444.810, RSMo [2000] **2016**. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.180 Casing and Sealing of Exposed Underground Openings. This rule stated requirements for casing and sealing of exposed underground openings for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. Amended: Filed Dec. 17, 2012, effective July 30, 2013. Rescinded: Filed March 26, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.190 Requirements for Topsoil Removal, Storage and Redistribution for Underground Operations. This rule stated requirements for topsoil removal, storage and redistribution for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 1994. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Rescinded: Filed March 26, 2018.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.200 Requirements for Protection of the Hydrologic Balance for Underground Operations. This rule stated requirements for protection of the hydrologic balance for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed March 26, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.210 Requirements for the Use of Explosives for Underground Operations. This rule stated requirements for the use of explosives for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed March 26, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.220 Disposal of Underground Development Waste and Excess Spoil. This rule stated requirements for the disposal of underground development waste and excess spoil for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed March 26, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.230 Requirements for the Disposal of Coal Processing Waste for Underground Operations. This rule stated requirements for the disposal of coal processing waste for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed March 26, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.240 Air Resource Protection. This rule stated requirements for air resource protection for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed March 26, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.250 Requirements for the Protection of Fish, Wildlife and Related Environmental Values and Protection Against Slides and Other Damage. This rule stated requirements for the protection

of fish, wildlife, and related environmental values and protection against slides and other damage for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

*AUTHORITY: section 444.810, RSMo 1994. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed March 26, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.260 Requirements for Backfilling and Grading for Underground Operations. This rule stated requirements for backfilling and grading for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

*AUTHORITY: sections 444.530 and 444.810, RSMo 2000. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed March 26, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.270 Revegetation Requirements for Underground Operations. This rule stated requirements for revegetation for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

*AUTHORITY: section 444.810, RSMo Supp. 1999. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed March 26, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.280 Requirements for Subsidence Control Associated with Underground Mining Operations. This rule stated requirements for subsidence control associated with underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 1994. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. Amended: Filed Sept. 15, 1988, effective Jan. 15, 1989. Rescinded: Filed March 26, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.290 Requirements for Road and Other Transportation Associated with Underground Operations. This rule stated

requirements for road and other transportation associated with underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 1994. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Rescinded: Filed March 26, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.300 Postmining Land Use Requirements for Underground Operations. This rule stated requirements for postmining land use for underground mining operations.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-3.170 which incorporates by reference the federal regulations that govern these requirements.

*AUTHORITY: section 444.810, RSMo 2000. Original rule filed Aug. 8, 1980, effective Dec 11, 1980. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed March 26, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED RESCISSION

10 CSR 40-3.310 Coal Recovery, Land Reclamation and Cessation of Operation for Underground Operations. This rule stated requirements for coal recovery, land reclamation and cessation of operation for underground mining operations.

PURPOSE: This rule is superseded by 10 CSR 40-3.170 that incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 1994. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. Rescinded: Filed March 26, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation] Missouri Mining* Commission
Chapter 4—Permanent Performance Requirements for Special Mining Activities

PROPOSED AMMENDMENT

10 CSR 40-4.020 Auger Mining Requirements. The director is amending the division title, section (1), and deleting sections (2)–(6).

PURPOSE: This amendment incorporates by reference the federal regulations that sets forth the requirements for auger mining pursuant to sections 444.810 and 444.855.2(9), RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) *[Any auger mining associated with surface mining activities shall be conducted to maximize recoverability of mineral reserves remaining after the mining activities are completed. Each person who conducts auger mining operations shall leave areas of undisturbed coal to provide access for removal of those reserves by future underground mining activities unless it has been determined in the permit and plan that the coal reserves have been depleted or are limited in thickness or extent to the point that it will not be practicable to recover the remaining coal reserves. This determination shall be made in the permit and plan only upon presentation of appropriate technical evidence by the operator.]* **Permanent program performance standards—auger mining requirements set forth in 30 CFR Part 785.20 and 819, as in effect on July 1, 2010, are incorporated by reference in this rule. Copies may be obtained by contacting the U.S. Government Publishing Office, PO Box 979050, St. Louis, MO 63197-9000 or online at https://www.gpo.gov. This rule does not incorporate any subsequent amendments or additions.**

[(2) Undisturbed areas of coal shall be left in unmined sections which—

(A) Are a minimum of two hundred fifty feet (250') wide at any point between each group of auger openings to the full depth of the auger hole;

(B) Are no more than two thousand five hundred feet (2500') apart, measured from the center of one section to the center of the next section, unless a greater distance is set forth in the permit application under 10 CSR 40-6.060(5) and approved in the permit and plan; and

(C) Shall have, for multiple seam mining, a width of at least two hundred fifty feet (250') plus fifty feet (50') for each subjacent workable coal seam. The centers of all unmined sections shall be aligned vertically.

(3) No auger hole shall be made closer than five hundred feet (500') in horizontal distance to any abandoned or active underground mine workings, except as approved in accordance with 10 CSR 40-3.070.

(4) In order to prevent pollution of surface and ground water and to reduce fire hazards, each auger hole, except as described in section (5) of this rule, shall be plugged so as to prevent the discharge of water from the hole and access of air to the coal as follows:

(A) Each auger hole discharging water containing toxic- or acid-forming material shall be plugged within seventy-two (72) hours after completion by backfilling and compacting noncombustible and impervious material into the hole to a depth sufficient to form a watertight seal or the discharge shall be treated commencing within seventy-two (72) hours after completion to meet applicable effluent limitations and water quality standards under 10 CSR 40-3.040(2), until the hole is properly sealed; and

(B) Each auger hole not discharging water shall be sealed as described in subsection (4)(A) of this rule to close the opening within thirty (30) days following completion.

(5) An auger hole need not be plugged if the commission or director finds—

(A) Impoundments of the water which would result from plugging the hole may create a hazard to the environment or public health or safety; and

(B) Drainage from the auger hole will not pose a threat of pollution to surface and ground water and will comply with the requirements of 10 CSR 40-3.040(1) and (2).

(6) The permit and plan shall prohibit auger mining if it is determined that—

(A) Adverse water quality impacts cannot be prevented or corrected;

(B) Fill stability cannot be achieved;

(C) The prohibition is necessary to maximize the utilization, recoverability or conservation of the solid fuel resources; or

(D) Subsidence resulting from auger mining may disturb or damage powerlines, pipelines, buildings or other facilities.]

*AUTHORITY: section 444.530, RSMo [Supp. 1999] **2016**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed March 21, 2000, effective Oct. 30, 2000. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation] Missouri Mining* Commission
Chapter 4—Permanent Performance Requirements for Special Mining Activities

PROPOSED AMMENDMENT

10 CSR 40-4.040 Operations on Steep Slopes. The director is amending the division title, section (1), and deleting sections (2)–(4).

PURPOSE: This amendment incorporates by reference the federal regulations that sets forth the requirements for steep slopes pursuant to sections 444.810 and 444.855.4., RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) *[Applicability.]* **Permanent program performance standards—auger mining requirements set forth in 30 CFR Parts 785.1, 785.2, and 785.10 as in effect on July 1, 2010, are incorporated by reference in this rule. Copies may be obtained by contacting the U.S. Government Publishing Office, PO Box 979050, St. Louis, MO 63197-9000 or online at https://www.gpo.gov. This rule does not incorporate any subsequent amendments or additions.**

[(A) Any surface coal mining and reclamation operations on steep slopes shall meet the requirements of this rule.

(B) The standards of this rule do not apply to mining conducted on a flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominately flat area.

(2) Performance Standards. Surface coal mining and reclamation operations subject to this rule shall comply with the requirements of 10 CSR 40-6 and, except to the extent a variance is approved under section (3) of this rule, the following:

(A) Materials Prevented on the Downslope.

1. The person engaged in surface coal mining and reclamation operations shall prevent the following materials from being placed or allowed to remain on the downslope:

A. Spoil;

B. Waste materials, including waste mineral matter;

C. Debris, including that from clearing and grubbing of haul road construction; and

D. Abandoned or disabled equipment.

2. Nothing in this subsection shall prohibit the placement of material in road embankments located on the downslope, so long as the material used and embankment design comply with the requirements of 10 CSR 40-3.140(1)–(22) or 10 CSR 40-3.290(1)–(22) and the material is moved and placed in a controlled manner;

(B) The highwall shall be completely covered with compacted spoil and the disturbed area graded to comply with

the provisions of 10 CSR 40-3.110(1)–(6) and 10 CSR 40-3.260, including, but not limited to, the return of the site to the approximate original contour. The person who conducts the surface coal mining and reclamation operation must demonstrate, using standard geotechnical analysis, that the minimum static factor of safety for the stability of all portions of the reclaimed land is at least 1.3;

(C) Land above the highwall shall not be disturbed, unless the commission or director finds that the disturbance facilitates compliance with the requirements of this rule;

(D) Material in excess of that required by the grading and backfilling provisions of subsection (2)(B) of this rule shall be disposed of in accordance with the requirements of 10 CSR 40-3.060(1)–(4) or 10 CSR 40-3.220;

(E) Woody materials shall not be buried in the backfilled area unless it is determined in the permit and plan that the proposed method for placing woody material beneath the highwall will not deteriorate the stable condition of the backfilled area as required in subsection (2)(B) of this rule. Woody materials may be chipped and distributed over the surface of the backfill as mulch, if special provisions are made for their use and approved in the permit and plan; and

(F) Unlined or unprotected drainage channels shall not be constructed on backfills unless approved in the permit and plan as stable and not subject to erosion.

(3) Limited Variances. Permittees may be granted variances from the approximate original contour requirements of subsection (2)(B) of this rule for steep slope surface coal mining and reclamation operations, if the following standards are met and a permit incorporating the variance is approved under 10 CSR 40-6.060(3):

(A) The highwall shall be completely backfilled with spoil material in a manner which results in a static factor of safety of at least 1.3 using standard geotechnical analyses;

(B) The watershed control of the area within which the mining occurs shall be improved by reducing the peak flow from precipitation or thaw and reducing the total suspended solids or other pollutants in the surface water discharge during precipitation or thaw. The total volume of flow during every season of the year shall not vary in a way that adversely affects the ecology of any surface water or any existing or planned public or private use of surface or ground water;

(C) Land above the highwall may be disturbed only to the extent that it is deemed appropriate and approved as necessary in the permit and plan to facilitate compliance with the provisions of this rule and if it is found in the permit and plan that the disturbance is necessary to—

1. Blend the solid highwall and the backfilled material;

2. Control surface runoff; or

3. Provide access to the area above the highwall;

(D) The landowner of the permit area has requested, in writing, as part of the permit application under 10 CSR 40-6.060(3) that the variance be granted;

(E) The operations are conducted in full compliance with a permit issued in accordance with 10 CSR 40-6.060(3); and

(F) Only the amount of spoil as is necessary to achieve the postmining land use, ensure the stability of spoil retained on the bench and meet all other requirements of the regulatory program shall be placed off the mine bench. All spoil not retained on the bench shall be placed in accordance with 10 CSR 40-3.060(1)–(4) or 10 CSR 40-3.220 and 10 CSR 40-3.110(1) and (2) or 10 CSR 40-3.260.

(4) Multiple Seam. In multiple seam steep slope affected areas, spoil not required to reclaim and restore the permit area may be placed on a preexisting bench, if approved in the permit and plan and if the following requirements are met:

(A) All excess spoil must be hauled, placed and retained on the solid bench;

(B) The spoil must be graded to the most moderate slope so as to eliminate the existing highwall to the extent possible with the available spoil;

(C) The fill must comply with 10 CSR 40-3.060(1) or 10 CSR 40-3.220(3) and the requirements of 10 CSR 40-3 and 10 CSR 40-4; and

(D) The bench on which the spoil is to be placed must have been created and abandoned due to coal mining prior to August 3, 1977.]

*AUTHORITY: section 444.530, RSMo [1986] **2016**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed Aug. 1, 1980, effective Dec. 11, 1980. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation] Missouri Mining* Commission
Chapter 4—Permanent Performance Requirements for Special Mining Activities

PROPOSED AMMENDMENT

10 CSR 40-4.060 Concurrent Surface and Underground Mining. The director is amending the division title, section (1), and deleting sections (2)–(4).

PURPOSE: This amendment incorporates by reference the federal regulations that sets forth the requirements for concurrent surface and underground mining pursuant to sections 444.810 and 444.855.2(12) and 444.855.2(16), RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) *[Responsibilities.]* **Permanent program performance standards—concurrent surface and underground mining requirements set forth in 30 CFR Part 785.18 as in effect on July 1, 2010, are incorporated by reference in this rule. Copies may be obtained by contacting the U.S. Government Publishing Office, PO Box 979050, St. Louis, MO 63197-9000 or online at https://www.gpo.gov. This rule does not incorporate any subsequent amendments or additions.**

[(A) The commission or director shall review and grant or deny requests for variances from the requirement that reclamation efforts proceed as contemporaneously as practicable in accordance with 10 CSR 40-6.060(7) and this rule.

(B) The person who conducts combined surface and underground mining activities shall comply with the provisions of this rule.

(2) Applicability. A variance under this rule applies only to those specific areas within the permit areas that the person conducting combined surface and underground mining activities has shown to be necessary for implementing the proposed concurrent operations and that the commission or director has approved in the permit under 10 CSR 40-6.060(7). The variance is effective for any particular portion of the permit area only for the time necessary to facilitate the authorized underground mining activities.

(3) Compliance With Variance Terms.

(A) Each person who conducts operations under a variance issued under 10 CSR 40-6.060(7) shall comply with all applicable requirements of this section and the regulatory program, except to the extent that—

1. A delay in compliance with these requirements is specifically authorized by the variance issued under the permit; and

2. The delay in compliance is necessary to achieve the purposes for which the variance was granted.

(B) Each person who conducts activities under a variance issued under 10 CSR 40-6.060(7) shall comply with each requirement of the variance as set forth in the permit.

(4) Additional Performance Standards. In addition to the requirements of 10 CSR 40-3, each person who conducts combined surface and underground mining activities shall comply with the following:

(A) A five-hundred foot (500') barrier pillar of coal shall be maintained between the surface and underground mining activities in any one (1) seam. The commission or director and the Mine Safety and Health Administration and Missouri Division of Labor Standards, however, may approve a lesser distance after finding in the permit and plan that mining at a lesser distance will result in—

1. Improved coal resources recovery;

2. Abatement of water pollution; or

3. Elimination of hazards to the health and safety of the public;

(B) The vertical distance between combined surface and underground mining activities working separate seams shall be sufficient to provide for the health and safety of the workers and to prevent surface water from entering the underground workings; and

(C) No combined activities shall reduce the protection provided public health and safety below the level of protection required for those activities if conducted without a variance.]

*AUTHORITY: section 444.810, RSMo [1986] **2016**. Original rule filed May 12, 1980, effective Sept. 11, 1980. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation] Missouri Mining* Commission
Chapter 4—Permanent Performance Requirements for Special Mining Activities

PROPOSED AMMENDMENT

10 CSR 40-4.070 *In Situ* Processing. The director is amending the division title, section (1), and deleting section (2).

PURPOSE: This amendment incorporates by reference the federal regulations that sets forth the requirements for in situ processing pursuant to section 444.810, RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) *[Performance Standards.]* **Permanent program performance standards—concurrent surface and underground mining requirements set forth in 30 CFR Part 785.22 and 828 as in effect on July 1, 2010, are incorporated by reference in this rule. Copies may be obtained by contacting the U.S. Government Publishing Office, PO Box 979050, St. Louis, MO 63197-9000 or online at https://www.gpo.gov. This rule does not incorporate any subsequent amendments or additions.**

[(A) The person who conducts in situ processing activities shall comply with 10 CSR 40-3.170–10 CSR 40-3.310 and this section.

(B) In situ processing activities shall be planned and conducted to minimize disturbance to the prevailing hydrologic balance by—

1. Avoiding discharge of fluids into holes or wells, other than as approved in the permit and plan;

2. Injecting process recovery fluids only into geologic zones or intervals approved as production zones in the permit and plan;

3. Avoiding annular injection between the wall of the drill hole and the casing; and

4. Preventing discharge of process fluid into surface waters.

(C) Each person who conducts in situ processing activities shall submit for approval as part of the application for permit under 10 CSR 40-6.060(8) and follow after approval, a plan that ensures that all radioactive, acid- or toxic-forming gases, solids or liquids constituting a fire, health, safety or environmental hazard and caused by the mining and recovery process are promptly treated, confined or disposed of in a manner that prevents contamination of ground and surface waters, damage to fish, wildlife and related environmental values, and threats to the public health and safety.

(D) Each person who conducts in situ processing activities shall prevent flow of the process recovery fluid—

1. Horizontally beyond the affected area identified in the permit; and

2. Vertically into overlying and underlying aquifers.

(E) Each person who conducts in situ processing activities shall restore the quality of affected groundwater in the mine plan and adjacent area, including groundwater above and below the production zone, to the approximate premining levels or better in order to ensure that the potential for use of the groundwater is not diminished.

(2) Monitoring.

(A) Each person who conducts in situ processing activities shall monitor the quality and quantity of surface and ground water and the subsurface flow and storage characteristics in a manner approved in the permit and plan (under 10 CSR 40-3.200(11)) to measure changes in the quantity and quality of water in surface and ground water systems in the mine plan and in adjacent areas.

(B) Air and water quality monitoring shall be conducted in accordance with monitoring programs approved in the permit and plan as necessary according to appropriate federal and state air and water quality standards.]

*AUTHORITY: section 444.810, RSMo [1986] **2016**. Original rule filed May 12, 1980, effective Sept. 11, 1980. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation]* *Missouri Mining* Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.100 Underground Mining Permit Applications*[—Minimum Requirements for Legal, Financial, Compliance, and Related Information]*. The department is amending the division title, rule title, section (1), and deleting sections (2)–(10).

PURPOSE: This rule states requirements for an underground mining permit application with minimum requirements for legal, financial, compliance, and related information. The director is amending this rule to incorporate by reference the federal regulations governing all underground coal mining operations permitting in order to reduce the number of state regulations as directed by the governor. This rule will amend 10 CSR 40-6.100, and supersede 10 CSR 40-6.110, and 10 CSR 40-6120.

(1) *[Identification of Interests.]* **Permanent program performance standards—underground mining activities requirements are found in 30 CFR Parts 783 and 784 as in effect on July 1, 2010, are incorporated by reference in this rule. Copies may be obtained by contacting the U.S. Government Publishing Office, PO Box 979050, St. Louis, MO 63197-9000 or online at https://www.gpo.gov. This rule does not incorporate any subsequent amendments or additions.**

[(A) Each application shall contain the following information, except that the submission of a Social Security number is voluntary:

1. The permit applicant including his/her telephone number, address and, as applicable, Social Security number and employer identification number;

2. Every legal or equitable owner of record of the areas to be affected by surface operations and facilities and every legal or equitable owner of record of the coal to be mined;

3. The holders of record of any leasehold interest in areas to be affected by surface operations or facilities and the holders of record of any leasehold interest in the coal to be mined;

4. Any purchaser of record under a real estate contract of areas to be affected by surface operations and facilities and any purchaser of record under a real estate contract of the coal to be mined;

5. The operator, if the operator is a person different from the applicant, including his/her telephone number, address and, as applicable, Social Security number and employer identification number;

6. The resident agent of the applicant who will accept service of process, including his/her telephone number, address and, as applicable, Social Security number and employer identification number; and

7. The person who will pay the abandoned mine land reclamation fee, including his/her telephone number and, as applicable, Social Security number and employer identification number.

(B) Each application shall contain a statement of whether the applicant is a corporation, partnership, single proprietorship, association, or other business entity. For businesses other than single proprietorships, the application shall contain the following information, where applicable:

1. Names and addresses of every officer; partner; director; member or other person performing a function similar to a director of the applicant; person who owns, of record, ten percent (10%) or more of the applicant or operator;

2. Name and address of any person who is a principal shareholder of the applicant; and

3. Names under which the applicant, partner, member, or principal shareholder, and the operator's partners or principal shareholders operate or previously operated a surface coal mining operation in the United States within the five (5) years preceding the date of application.

(C) For each person who owns or controls the applicant under the definition of owned or controlled and owns or controls in 10 CSR 40-6.010(2)(E), as applicable each application shall contain—

1. The person's name, address, Social Security number, and employer identification number;

2. The person's ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure;

3. The title of the person's position, date position was assumed and, when submitted under 10 CSR 40-6.070(12)(E), date of departure from the position;

4. Each additional name and identifying number, including employer identification number, federal or state permit number, and the Mine Safety and Health Administration (MSHA) number with date of issuance, under which the person owns or controls, or previously owned or controlled, a

surface coal mining and reclamation operation in the United States within the five (5) years preceding the date of the application; and

5. The application number or other identifier of, and the regulatory authority for, any other pending surface coal mining operation permit application filed by the person in any state in the United States.

(D) For any surface coal mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant under the definition of owned or controlled and owns or controls in 10 CSR 40-6.010(2)(E), each application shall contain—

1. Name, address, identifying numbers, including employer identification number, federal or state permit number and the MSHA number, the date of issuance of the MSHA number, and the regulatory authority; and

2. Ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure.

(E) Each application shall contain the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.

(F) Each application shall contain the name of the proposed mine and the MSHA identification number for the mine and all sections, if any.

(G) Each application shall contain a statement of all lands, interests in lands, options or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit. If requested by the applicant, any information required by this subsection which is not on public file pursuant to state law shall be held in confidence by the director, as provided under 10 CSR 40-6.070(6)(C)2.

(H) After an applicant is notified that his/her application is approved, but before the permit is issued, the applicant, as applicable, shall update, correct, or indicate that no change has occurred in the information previously submitted under subsections (1)(A)–(D) of this rule.

(I) The applicant shall submit the information, required by this section and section (2) of this rule, in any prescribed format that is issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE).

(2) Compliance Information. Each application shall contain—

(A) A statement of whether the applicant, any subsidiary, affiliate, operator, or entity which the applicant or the applicant's operator owns or controls or which is under common control with the applicant or the applicant's operator has—

1. Had a federal or state surface coal mining permit suspended or revoked in the last five (5) years preceding the date of submission of the application; or

2. Forfeited a mining bond or similar security deposited in lieu of bond;

(B) If any such suspension, revocation, or forfeiture has occurred, a statement of the facts involved, including:

1. Identification number and date of issuance of the permit or date and amount of bond or similar security;

2. Identification of the authority that suspended or revoked a permit or forfeited a bond and the stated reasons for that action;

3. The current status of the permit, bond, or similar security involved;

4. The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and

5. The current status of these proceedings;

(C) For any violation of a provision of the Act, or of any law, rule, or regulation of the United States, or of any state law, rule, or regulation enacted pursuant to federal law, rule or regulation pertaining to air or water environmental protection incurred in connection with any surface coal mining operation, a list of all violations notices received by the applicant during the three (3)-year period preceding the application date, and a list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant. For each violation notice or cessation order reported, the lists shall include the following information, as applicable:

1. Any identifying numbers for the operation, including the federal or state permit number and MSHA number, the dates of issuance of the violation notice and MSHA number, the name of the person to whom the violation notice was issued, and the name of the issuing regulatory authority, department, or agency;

2. A brief description of the violation alleged in the notice;

3. The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by any person identified in subsection (C) of this section to obtain administrative or judicial review of the violation;

4. The current status of the proceedings and of the violation notice; and

5. The actions, if any, taken by any person identified in subsection (C) of this section to abate the violation; and

(D) After an applicant is notified that his/her application is approved, but before the permit is issued, the applicant, as applicable, shall update, correct, or indicate that no change has occurred in the information previously submitted under this section.

(3) Right-of-Entry and Operation Information.

(A) Each application shall contain a description of the documents upon which the applicant bases his/her legal right to enter and begin underground mining activities in the permit area and whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains and explain the legal rights claimed by the applicant.

(B) For underground mining activities where the associated surface operations involve the surface mining of coal and the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide, for lands to be affected by those operations within the permit area—

1. A copy of the written consent of the surface owner to the extraction of coal by surface mining methods;

2. A copy of the document of conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or

3. If the conveyance does not expressly grant the right to extract coal by surface mining methods, documentation that under the applicable state law, the applicant has the legal authority to extract the coal by those methods.

(C) Nothing in this section shall be construed to afford the commission or director the authority to adjudicate property title disputes.

(4) Relationship to Areas Designated Unsuitable for Mining.

(A) Each application shall contain a statement of available information on whether the proposed permit area is within an area designated unsuitable for underground mining activities under 10 CSR 40-5.020 or under study for designation

in an administrative proceeding initiated under that rule.

(B) If an applicant claims the exemption in 10 CSR 40-6.070(8)(D) 2, the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed underground mining activities.

(C) If an applicant proposes to conduct or locate surface operations or facilities within three hundred feet (300') of an occupied dwelling, the application shall include the waiver of the owner of the dwelling as required in 10 CSR 40-5.010(3)(E).

(5) Permit Term Information.

(A) Each application shall state the anticipated or actual starting and termination date of each phase of the underground mining activities and the anticipated number of acres of surface lands to be affected and the horizontal and vertical extent of proposed underground mine workings for each phase of mining and over the total life of the permit.

(B) If the applicant proposes to conduct the underground mining activities in excess of five (5) years, the application shall contain the information needed for the showing required under 10 CSR 40-6.070(11)(A).

(6) Personal Injury and Property Damage Insurance Information. Each permit application shall contain a certificate of liability insurance.

(7) Identification of Other Licenses and Permits.

(A) Each application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed underground mining activities. This list shall identify each license and permit by—

1. Type of permit or license;

2. Name and address of issuing authority;

3. Identification numbers of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses; and

4. If a decision has been made, the date of approval or disapproval by each issuing authority.

(8) Identification of Location of Public Office for Filing of Application. Each application shall identify, by name and address, the public office where the applicant will simultaneously file a copy of the application for public inspection under 10 CSR 40-6.070(2)(D).

(9) Newspaper Advertisement and Proof of Publication. A copy of the newspaper advertisement of the application and proof of publication of the advertisement shall be filed with the director and made a part of the complete application not later than four (4) weeks after the last date of publication required under 10 CSR 40-6.070(2)(A).

(10) Access. The written consent of the applicant and any other persons necessary to grant access should be given to the commission or the director for the area of land affected under application from the date of application until the expiration of any permit granted under the application and after that for such time as is necessary to assure compliance with all provisions of this law or any corresponding rule.]

*AUTHORITY: section 444.810, RSMo [2000] **2016**. Original rule filed Aug. 1, 1980, effective Dec. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED RESCISSION

10 CSR 40-6.110 Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources. This rule stated requirements for underground mining permit applications with minimum requirements for protection of environmental resources.

PURPOSE: This rule is being rescinded as it is superseded by 10 CSR 40-6.100 which incorporates by reference the federal regulations that govern these requirements.

*AUTHORITY: section 444.810, RSMo 2000. Original rule filed Aug. 1, 1980, effective Dec. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed March 26, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED RESCISSION

10 CSR 40-6.120 Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operations Plan. This rule stated requirements for underground mining permit applications with minimum requirements for reclamation and operations plan.

PURPOSE: This rule is being rescinded as it is superseded by 10

CSR 40-6.100 which incorporates by reference the federal regulations that govern these requirements.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Aug. 1, 1980, effective Dec. 11, 1980. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed March 26, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation]* *Missouri Mining* Commission
Chapter 9—Abandoned Mine Reclamation Fund; Abandoned Mine Reclamation and Restoration

PROPOSED AMENDMENT

10 CSR 40-9.010 Abandoned Mine Reclamation Fund. The director is amending the division nomenclature, the purpose statement to accurately cite sections 444.925 and 444.930, RSMo as referenced citations, and to amend sections (2) and (3).

PURPOSE: Amendment is due to legislative changes to the "Land Reclamation Act" (the "Act") in 2014, (HB 1201 and SB 642) rules, to align the rule with proper rule citation, and to conform to the requirements of Executive Order 17-03.

PURPOSE: This rule sets forth requirements for the abandoned mine reclamation fund pursuant to sections 444.810, 444.915, 444.920, ***444.925, 444.930,*** *and 444.940.2., RSMo.*

(2) Revenue to the abandoned mine reclamation fund *[shall]* include**s**:

(3) Monies deposited in the fund *[shall]* **are to** be used to carry out the state reclamation plan.

AUTHORITY: section 444.810, RSMo [1994] ***2016****. Original rule filed June 11, 1981, effective Oct. 13, 1981. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation]* *Missouri Mining* Commission
Chapter 9—Abandoned Mine Reclamation Fund; Abandoned Mine Reclamation and Restoration

PROPOSED AMENDMENT

10 CSR 40-9.020 Reclamation—General Requirements. The director is amending the division nomenclature and subsection (1)(E), and deleting sections (4) and (5) and the forms following the rule.

PURPOSE: Amendment is due to legislative changes to the "Land Reclamation Act" (the "Act") in 2014, (HB 1201 and SB 642) rules and to conform to the requirements of Executive Order 17-03.

(1) Land and water are eligible for reclamation activities if—

(E) Monies available from sources outside the fund or which are ultimately recovered from responsible parties involving lands eligible pursuant to subsection (1)(D) of this rule, *[shall either]* **are to** be used to offset the cost of the reclamation or transferred to the fund if not *[required]* **needed** for further reclamation activities at the permitted site; and

[(4) Reclamation Objectives and Priorities. Reclamation projects shall meet one (1) or more of the objectives stated in this section. The objectives are stated in the order of priority with the highest priority first. Preference among those projects competing for available resources shall be given to projects meeting higher priority objectives. The objectives are based on the need for—

(A) Protection of public health, safety, general welfare and property from extreme danger resulting from the adverse effects of past coal mining practices;

(B) Protection of public health, safety and general welfare from adverse effects of past coal mining practices which do not constitute an extreme danger;

(C) Restoration of eligible land and water and the environment previously degraded by adverse effects of past coal mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources and agricultural productivity;

(D) Research and demonstration projects relating to the development of surface coal mining reclamation and water quality control program methods and techniques;

(E) Protection, repair, replacement, construction or enhancement of public facilities such as utilities, roads, recreation and conservation facilities adversely affected by past coal mining practices;

(F) Development of publicly-owned land adversely affected by past coal mining practices, including land acquired under 10 CSR 40-9.050, for recreation and historic purposes, conservation and reclamation purposes and open space benefits;

(G) Protection of the public from hazards endangering life and property resulting from the adverse effects of past noncoal mining practices. However, upon request of the governor, such work may be undertaken before the priorities related to past coal mining have been fulfilled;

(H) Protection of the public from hazards to health and safety from the adverse effects of past noncoal mining practices;

(I) Restoration of the environment degraded by the adverse effects of past noncoal mining; and

(J) Construction of public facilities in communities impacted by coal development when the governor certifies that all other objectives of the fund have been met, the available

impact funds are inadequate for such construction and the director concurs.

(5) Reclamation Project Evaluation. Proposed reclamation projects and completed reclamation work shall be evaluated in terms of the factors stated in this section. The factors shall be used to determine whether or not proposed reclamation will be undertaken and to assign priorities to proposals intended to meet the same objective under section (4) of this rule. Completed reclamation shall be evaluated in terms of the factors set forth below as a means to identify conditions which should be avoided, corrected or improved in plans for future reclamation work. The factors shall include:

(A) The need for reclamation work to accomplish one (1) or more specific reclamation objectives as stated in section (4) of this rule;

(B) The availability of technology to accomplish the reclamation work with reasonable assurance of success. In the case of research and demonstration projects, the research capability and plans shall provide reasonable assurance of beneficial results without residual adverse impacts;

(C) The specific benefits of reclamation which are desirable in the area in which the work will be carried out. Benefits to be considered include, but are not limited to, the:

1. Protection of human life, health or safety;

2. Protection of the environment, including air and water quality, abatement of erosion and sedimentation, fish, wildlife and plant habitat, visual beauty, historic or cultural resources and recreation resources;

3. Protection of public or private property;

4. Abatement of adverse social and economic impacts of past mining on persons or property including employment, income and land values or uses, or assistance to persons disabled, displaced or dislocated by past mining practices;

5. Improvement of environmental conditions which may be considered to generally enhance the quality of human life;

6. Improvement of the use of natural resources, including post-reclamation land uses which—

A. Increase the productive capability of the land to be reclaimed;

B. Enhance the use of surrounding lands consistent with existing land-use plans;

C. Provide for construction or enhancement of public facilities; and

D. Provide for residential, commercial or industrial developments consistent with the needs and plans of the community in which the site is located; and

7. Demonstration to the public and industry of methods and technologies which can be used to reclaim areas disturbed by mining;

(D) The acceptability of any additional adverse impacts to people or the environment that will occur during or after reclamation and of uncorrected conditions, if any, that will continue to exist after reclamation;

(E) The Costs of Reclamation. Consideration shall be given to both the economy and efficiency of the reclamation work and to the results obtained or expected as a result of reclamation;

(F) The availability of additional coal or other mineral or material resources within the project area which—

1. Results in a reasonable probability that the desired reclamation will be accomplished during the process of future mining; or

2. Requires special consideration to assure that the resource is not lost as a result of reclamation and that the benefits of reclamation are not negated by subsequent, essential resource recovery operations;

(G) The acceptability of post-reclamation land uses in terms of compatibility with land uses in the surrounding area, consistency with applicable state, regional and local land-use plans and laws, and the needs and desires of the community in which the project is located; and

(H) The probability of post-reclamation management, maintenance and control of the area consistent with the reclamation completed.]

*AUTHORITY: section 444.810, RSMo [Supp. 1999] **2016**. Original rule filed June 11, 1981, effective Oct. 13, 1981. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000, effective Oct. 30, 2000. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation] Missouri Mining* Commission
Chapter 9—Abandoned Mine Reclamation Fund; Abandoned Mine Reclamation and Restoration

PROPOSED AMENDMENT

10 CSR 40-9.030 Rights of Entry. The director is amending the division nomenclature, the purpose to accurately cite sections 444.925, RSMo as referenced citations, and to amend subsections (2)(B), (2)(C), paragraphs (3)(B)2., (3)(B)3., subsections (3)(C), (4)(A), and paragraph (4)(B)1.

PURPOSE: Amendment is due to legislative changes to the "Land Reclamation Act" (the "Act") in 2014, (HB 1201 and SB 642) rules, to align the rule with proper rule citation, to align rules with federal regulation, and to conform to the requirements of Executive Order 17-03.

*PURPOSE: This rule sets forth requirements for the entry onto land by the state under the state reclamation plan for purposes of reclamation and of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and performing reclamation work pursuant to sections 444.810, 444.[8]**9**25 and 444.940, RSMo [(1986)].*

(2) Entry for Studies or Exploration.

(A) The commission, its agents, employees**,** or contractors shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and the feasibility of restoration, reclamation, abatement, control**,** or prevention of such adverse effects.

(B) If the owner of the land to be entered under this section will not provide consent to entry, the commission will give notice in writing to the owner of its intent to enter for purposes of study and exploration to determine the existence of adverse effects of past coal mining practices which may be harmful to the public health, safety**,** or

[general welfare] **environment**. The notice shall be by mail, return receipt requested, to the owner, if known, and shall include a statement of the reasons why entry is believed necessary. If the owner is not known, or the current mailing address of the owner is not known, or the owner is not readily available, the notice shall be posted in one (1) or more places on the property to be entered where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. Notice shall be given at least thirty (30) days before entry.

(C) Entry *[required]* **necessary** to investigate and explore reported emergency conditions will be governed by 10 CSR 40-9.030(4).

(3) Entry for Reclamation.

(A) The commission, its agents, employees**,** or contractors may enter upon land to perform reclamation activities if the consent of the owner cannot be obtained.

(B) Prior to entry under this section, the commission shall find in writing with supporting reasons that—

1. Land or water resources have been adversely affected by past coal mining practices;

2. The adverse effects are at a stage where, in the interest of the public health, safety**,** or *[the general welfare]* **environment**, action to restore, reclaim, abate, control**,** or prevent should be taken;

3. The owner of the land or water resources where entry *[must be made]* **is necessary** to restore, reclaim, abate, control**,** or prevent the adverse effects of past coal mining practices is not known or readily available; or

4. The owner will not give permission for the commission, its agents, employees**,** or contractors to enter upon such property to restore, reclaim, abate, control**,** or prevent the adverse effects of past coal mining practices.

(C) The commission will give notice of its intent to enter for purposes of conducting reclamation at least thirty (30) days before entry upon the property. The notice shall be in writing and *[shall be]* mailed, return receipt requested, to the owner, if known, with a copy of the findings required by this section. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted in one (1) or more places on the property to be entered where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. The notice posted on the property and advertised in the newspaper shall include a statement of where the findings required by this section may be inspected or obtained.

(4) Entry for Emergency Reclamation.

(A) The commission, its agents, employees**,** or contractors shall have the right to enter upon any land where an emergency exists and on any other land to have access to the land where the emergency exists to restore, reclaim, abate, control**,** or prevent the adverse effects of coal mining practices and to do all things necessary or expedient to protect the public health, safety**,** or *[general welfare]* **environment**.

(B) Prior to entry under this section, the director shall make a written finding with supporting reasons that—

1. An emergency exists constituting a danger to the public health, safety**,** or *[general welfare]* **environment**;

2. Emergency restoration, reclamation, abatement, control**,** or prevention of adverse effects of past coal mining is necessary; and

3. No other person or agency will act expeditiously to restore, reclaim, abate, control**,** or prevent the adverse effects of past coal mining practices.

*AUTHORITY: section 444.810, RSMo [1994] **2016**. Original rule filed June 11, 1981, effective Oct. 13, 1981. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation]* *Missouri Mining* Commission
Chapter 9—Abandoned Mine Reclamation Fund; Abandoned Mine Reclamation and Restoration

PROPOSED AMENDMENT

10 CSR 40-9.040 Acquisition of Land and Water for Reclamation. The director is amending the division nomenclature, the purpose to accurately cite sections 444.925, RSMo as referenced citations, and to amend subsections (1)(A) and (2)(A), and deleting subsection (1)(B).

PURPOSE: Amendment is due to legislative changes to the "Land Reclamation Act" (the "Act") in 2014, (HB 1201 and SB 642) rules, to align the rule with proper rule citation, to update references, and to conform to the requirements of Executive Order 17-03.

*PURPOSE: This rule sets forth requirements for the acquisition of land and water for reclamation purposes by the state under the state reclamation plan pursuant to sections 444.810, 444.925.3[, 444.925.4]–**6,** and 444.940, RSMo [(1986)].*

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Land Eligible for Acquisition.

(A) Land adversely affected by past coal mining practices may be acquired by the commission with federal moneys from the fund if approved in advance by the office. Prior to acquisition of such land, the commission shall find in writing that acquisition is necessary for successful reclamation *[and that—]* **in accordance with section 444.925.1, RSMo.**

[1. The acquired land will serve recreation, historic, conservation and reclamation purposes or provide open space benefits after restoration, reclamation, abatement, control or prevention of adverse effects of past coal mining practices; and

2. Permanent facilities such as a mine drainage treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices.

(B) Coal refuse disposal sites and all coal refuse thereon may be acquired by the commission if approved in advance by the office. Prior to approval of acquisition of such sites, the commission shall find in writing that the acquisition of such land is necessary for successful reclamation and will

serve the purposes of the state reclamation program or that public ownership is desirable to meet an emergency situation and prevent recurrence of adverse effects of past coal mining practices.]

*[(C)]***(B)** The commission in acquiring land under this rule shall acquire only such interests in the land as are necessary for the reclamation work planned or the post-reclamation use of the land. Interest in improvements on the land, mineral rights**,** or associated water rights may be acquired if—

1. Severance of such interests from the surface estate cannot be made; or

2. Such interests are necessary to the reclamation work planned or the post-reclamation use of the land; and

3. Adequate written assurances cannot be obtained from the owner of the severed interest that future use of the severed interest will not be in conflict with the reclamation to be accomplished.

(2) Procedures for Acquisition.

(A) An appraisal of the fair market value of all land or interest in land to be acquired shall be obtained from a professional appraiser. The appraisal shall state the fair market value of the land as adversely affected by past mining and shall otherwise conform to the requirements of the handbook on *Uniform Appraisal Standards for Federal Land Acquisitions* (Interagency Land Acquisition Conference *[1973]***, 2016***[.]***, which is incorporated by reference and made a part of this rule, copies may be obtained by contacting The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington, D.C. 20005 or online at https://www.appraisalfoundation.org. This rule does not incorporate any subsequent amendments or additions.**

(3) Acceptance of Gifts of Land.

(C) If the offer is accepted, a deed of conveyance shall be executed, acknowledged**,** and recorded. The deed shall state that it is made "as a gift under the Surface Coal Mining Law**,**"*[,]* RSMo *[(1986)]*. Title to donated land shall be in the name of the governor of the state of Missouri.

*AUTHORITY: section 444.810, RSMo [1994] **2016**. Original rule filed June 11, 1981, effective Oct. 13, 1981. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation]* *Missouri Mining* Commission
Chapter 9—Abandoned Mine Reclamation Fund; Abandoned Mine Reclamation and Restoration

PROPOSED AMENDMENT

10 CSR 40-9.050 Management and Disposition of Land and Water. The director is amending the division nomenclature, the purpose to accurately cite sections 444.925, RSMo as referenced citations, deleting subsections (1)(B), (1)(C), and amending subsection (2)(E).

PURPOSE: Amendment is due to legislative changes to the "Land Reclamation Act" (the "Act") in 2014, (HB 1201 and SB 642) rules, to align the rule with proper rule citation, to align rules with federal regulation, and to conform to the requirements of Executive Order 17-03.

*PURPOSE: This rule sets forth requirements for management and disposition of land and water acquired for reclamation purposes by the state under the state reclamation plan pursuant to sections 444.810, 444.[8]**9**25.5, 444.[8]**925**.6, and 444.940, RSMo [(1986)].*

(1) Management of Acquired Lands.

[(B) Any user of land acquired under 10 CSR 40-9.040 shall be charged a use fee. The fee shall be determined on the basis of the fair market value of the benefits granted to the user, charges for comparable uses within the surrounding area or the costs to the state for providing the benefits, whichever is appropriate.

(C) All use fees collected shall be deposited in the fund in accordance with 10 CSR 40-9.010.]

(2) Disposition of Reclaimed Lands.

(A) Prior to the disposition of any land acquired under this section, the commission shall—

1. Publish a notice which describes the proposed disposition of the land in a newspaper of general circulation within the area where the land is located for a minimum of four (4) successive weeks. The notice shall provide at least thirty (30) days for public comment and state where copies of plans for disposition of the land may be obtained or reviewed and the address to which comments on the plans should be submitted. The notice shall also state that a public hearing will be held if requested by any person;

2. Hold a public hearing if requested as a result of the public notice. The commission may determine that a hearing is appropriate even if a request is not received. It shall be scheduled at a time and place that affords local citizens and political subdivisions the maximum opportunity to participate. The time and place of the hearing shall be announced in a newspaper of general circulation in the area in which the land is located at least thirty (30) days before the hearing. All comments received at the hearing shall be recorded; and

3. Make a written finding that the proposed disposition is appropriate considering all comments received and consistent with any local, state**,** or federal law or regulations which apply.

(D) The commission, in accordance with applicable law and with the approval of the regional director of the office, may sell land acquired under 10 CSR 40-9.040 by public sale if such land is suitable for industrial, commercial, residential**,** or recreational development and if such development is consistent with local, state**,** or federal land-use plans for the area in which the land is located.

1. Land shall be sold by public sale only if it is found that retention by the state or disposal under this section is not in the public interest.

2. Land will be sold for not less than fair market value in accordance with the following minimum procedures, and such other procedures utilized for each sale:

A. Publication of a notice once a week for four (4) consecutive weeks in a newspaper of general circulation in the locality in which the land is located. This notice shall describe the land to be sold, state the appraised value, state any restrictive covenants which will be a condition of the sale, and state the time and place of the sale; and

B. Sealed bids to be submitted prior to the sale date followed by an oral auction open to the public.

(E) All monies received from disposal of land under this rule

[shall] **will** be *[deposited in the abandoned mine reclamation fund]* **deobligated and returned to the office**.

AUTHORITY: section 444.810, RSMo [1994] 2016. Original rule filed June 11, 1981, effective Oct. 13, 1981. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation]* *Missouri Mining* Commission
Chapter 9—Abandoned Mine Reclamation Fund; Abandoned Mine Reclamation and Restoration

PROPOSED AMENDMENT

10 CSR 40-9.060 Reclamation on Private Lands. The director is amending the division nomenclature, and amending section (1), subsection (2)(B), paragraphs (3)(A)2. and (3)(A)4.

PURPOSE: Amendment is due to legislative changes to the "Land Reclamation Act" (the "Act") in 2014, (HB 1201 and SB 642) rules, to align rules with federal regulation, and to conform to the requirements of Executive Order 17-03.

(1) Reclamation activities may be carried out on private land if a consent to enter is obtained under 10 CSR 40-9.030(1), or if entry is *[required]* **necessary** and made under 10 CSR 40-9.030(3) or 10 CSR 40-9.030(4).

(2) Appraisals.

(B) This appraisal shall be made prior to start of reclamation activities. The commission shall furnish to the appraiser information of sufficient detail in the form of plans, factual data, specifications, etc. to make these appraisals. When reclamation *[requires]* **necessitates** more than six (6) months to complete, an updated appraisal under paragraph (2)(A)2. shall be made to determine if the increase in value as originally appraised has actually occurred. This updated appraisal shall not include any increase in value of the land as unreclaimed. If the updated appraisal value results in lower increase in value, this increase shall be used as a basis for the lien. However, an increase in value resulting from the updated appraisal shall not be considered in determining a lien. The commission shall provide appraisal standards for projects consistent with generally acceptable appraisal practice.

(3) Liens.

(A) The commission has the discretionary authority to place or waive a lien against land reclaimed if the reclamation results in a significant increase in the fair market value.

1. The basis for making a determination of what constitutes a significant increase in market value or what factual situation constitutes a waiver of lien will be made by the commission pursuant to section 444.930, RSMo *[(1986)]* and consistent with state laws governing liens.

2. A lien shall not be placed against the property of a surface owner who *[acquired title prior to May 2, 1977 and who]* did not consent to, participate in**,** or exercise control over the mining operation which necessitated the reclamation work*[;]***.**

3. The lien may be waived by the commission if the cost of filing it, including indirect costs to the state**,** exceeds the increase in fair market value as a result of reclamation activities.

4. The lien may be waived by the commission if findings made prior to construction indicate that the reclamation work performed on private land *[shall]* **will** primarily benefit health, safety**,** or environmental values of the greater community or area in which the land is located, or if reclamation is necessitated by an unforeseen occurrence and the work performed to restore that land will not result in a significant increase in the market value of the land as it existed immediately before the occurrence;

AUTHORITY: section 444.810, RSMo [1994] 2016. Original rule filed June 11, 1981, effective Oct. 13, 1981. Amended: Filed March 18, 1987, effective June 25, 1987. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation]* *Missouri Mining* Commission
Chapter 10—Permit and Performance Requirements for Industrial Mineral Open Pit and In-Stream Sand and Gravel Operations

PROPOSED AMENDMENT

10 CSR 40-10.010 Permit Requirements for Industrial Mineral Operations. The director is amending section (1), paragraph (1)(A)12., and deleting subsections (2)(C), (D), and (E).

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

(1) Operations Required to Have Permits. Any person, firm**,** or corporation engaged in or controlling surface mining of industrial minerals in areas opened on or after January 1, 1972, must obtain a permit from the *[Land Reclamation]* **Missouri Mining** Commission in accordance with section 444.770.1. and 444.770.2., RSMo. The effective date for having to obtain a permit for minerals not covered previously under the provisions of the Land Reclamation Act, as amended is August 28, 1990.

(A) After August 28, 1990, surface mining for the following industrial minerals shall require a permit:

1. Gravel;
2. Limestone;
3. Granite;

4. Traprock;
5. Tar sands;
6. Clay;
7. Barite;
8. Sandstone;
9. Oil shale;
10. Sand;
11. Shale; and
12. All others as defined in 444.765*[.4.]***(11)**, RSMo.

(2) Operations Not Required to Obtain a *[Land Reclamation]* **Missouri Mining** Permit.

(A) These regulations do not apply to iron, lead, zinc, gold, silver, coal, water, fill dirt, natural oil**,** or gas.

(B) Surface mining for industrial minerals may be conducted without a permit by any—

1. Individual for personal use only; and

2. Political subdivision including, but not limited to, county, city, state**,** or branch of the military which uses its own personnel and equipment to obtain minerals for its own use.

[(C) As stated in section 444.770.4., RSMo, any portion of a surface mining operation which is subject to sections 260.200–260.245, RSMo, and the associated regulations on solid waste disposal will not be required to obtain a surface mining permit. Any permits already issued for a surface mining operation will be canceled by the Land Reclamation Commission if the operator shows that s/he has received and initiated operations under a solid waste permit for the same area. This submittal shall consist of a letter from the Waste Management Program showing issuance of a solid waste disposal permit or sanitary landfill permit and include the legal description of the site(s), the effective date and expiration date of the permit, the date that disposal began and plans for closure and post-closure.

(D) For surface mine operations initiated after September 28, 1971 that are controlled by a governmental agency whose regulations require the mining and reclamation operation to comply with standards that are greater than or equal to the standards in section 444.774, RSMo of the Land Reclamation Act these operations are—

1. Not subject to the permitting requirements under sections 444.760–444.790, RSMo; and

2. Required to register with the Land Reclamation Commission prior to operating Registration will consist of providing—

A. The name of the governmental agency conducting the surface mine operations and the legal description of the operations;

B. A copy of the law and rules which are applicable to the operation; and

C. A description of the operation.

(E) In-stream sand and gravel dredging operations in the Missouri and Mississippi Rivers which are regulated by the Department of the Army, Corps of Engineers, under section 10 of the 1899 Rivers and Harbors Act, and/or section 404 of the Clean Water Act shall register with the Land Reclamation Commission by furnishing a copy of their current Department of the Army permit and supporting documents to the commission within thirty (30) days after the effective date of these regulations (February 6, 1992) or within thirty (30) days after issuance of a Department of the Army permit, whichever occurs first. Thereafter, these operations shall register on January 1 or each year so long as the operation is active.]

*AUTHORITY: sections 444.767, [RSMo Supp. 1993,] 444.770, and 444.784, RSMo [Supp. 1990] **2016**. Original rule filed Aug. 2, 1991, effective Feb. 6, 1992. Amended: Filed June 1, 1994, effective Nov. 30, 1994. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation]* *Missouri Mining* Commission
Chapter 10—Permit and Performance Requirements for Industrial Mineral Open Pit and In-Stream Sand and Gravel Operations

PROPOSED AMENDMENT

10 CSR 40-10.030 Bonding. The director is amending the division title and section (1), deleting section (3), and renumbering as necessary.

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

(1) Bond Requirements. All permit applications must include a bond for the appropriate amount payable to the state of Missouri, which remains in effect until mined acreages have been reclaimed, approved**,** and released by the commission or director, or until replaced with a bond of equal amount.

(A) Operations mining more than five thousand (5,000) tons per year of gravel or any quantity of either limestone, barite, traprock, granite, tar sand, clay, sandstone, oil shale, sand, shale**,** and all others defined in section 444.765*[.4.]***(11)**, RSMo must file an eight thousand-dollar ($8,000) bond with the commission. The eight thousand-dollar ($8,000) bond covers up to eight (8) acres of permitted area. Each additional acre permitted over eight (8) acres shall be bonded at five hundred dollars ($500) per acre. Multiple sites totaling eight (8) acres or less may be covered by a single eight thousand-dollar ($8,000) bond if they are part of a single permit.

(2) Types of Bonds. The director may accept surety bonds and collateral bonds secured by certificates of deposit (CDs).

(B) Collateral bonds secured by CDs shall be subject to the following conditions:

1. The bonds shall be submitted on a form provided by the commission as provided by section 444.778.1., RSMo. A CD must be assigned to the state of Missouri;

2. Interest on a CD shall be paid to the permittee;

3. No single CD shall exceed the sum of *[one hundred]* **two hundred and fifty** thousand dollars *[($100,000)]* **($250,000.00)**, nor shall any permittee submit CD aggregating more than *[one hundred]* **two hundred and fifty** thousand dollars *[($100,000)]* **($250,000.00)** from a single bank or financial institution. The issuing bank or financial institution must be insured by the Federal Deposit Insurance Corporation;

4. The CD shall be kept in the custody of Missouri until the bond is released by the commission or director; and

5. The permittee shall give prompt notice to the commission of any insolvency or bankruptcy of the issuer of the certificate.

[(3) If, after a surety has provided ninety (90)- day notice of cancellation, the bond shall be considered canceled on any unaffected acreage, except that the total bonding may not be reduced to less than the eight thousand dollar ($8,000) minimum.]

*[(4)]***(3)** In addition to these bonding requirements, for each acre or portion of an acre permitted on or after August 28, 1990, where topsoil has been removed, either by discarding or selling, an additional bond at four thousand five hundred dollars ($4,500) per acre shall be filed with the *[Land Reclamation]* **Missouri Mining** Commission, unless the area does not require replacement of topsoil for revegetation. If more than twelve inches (12") of topsoil exists on the site or if the commission approves a soil substitution plan, the excess may be sold without posting the additional bond.

*[(5)]***(4)**An operator may file with the commission or director a bond release request for permitted bonded acres which are not disturbed at any time. If approved by the commission, the bond will be reduced at the rate at which it was posted, following a field inspection of the area to verify that no disturbance has occurred.

*[(6)]***(5)** When an operator succeeds another at an operation, the commission or director may release the first operator after the successor operator obtains a permit and posts the bonds required by law and assumes, in writing, all outstanding reclamation liability and requirements at the site(s) transferred to the successor operator. All areas disturbed by the first operator that have not been transferred to the successor operator shall remain the liability of the first operator.

*[(7)]***(6)** To file a request for bond release on an operation, an operator must apply, in writing, to the commission for release of the bond or portion of the bond. This application shall be on a form provided by the commission and shall be accompanied by a map showing the area requested for release. The operator shall also send notice to the owner(s) of the land upon which the application for release has been filed, unless the operator is the owner of the land that is under permit. Said notice shall contain a copy of the release application and a statement that the landowner(s) may submit a request for a formal hearing to the *[Land Reclamation]* **Missouri Mining** Commission if s/he believes that the land affected by surface mining does not meet the performance standards listed in 10 CSR 40-10.050. The notice shall also inform the landowner(s) that s/he will have thirty (30) days from the date that the land reclamation program receives the operator's application for release to make the request for a formal hearing. The application for release and the notification letter to the landowner(s) shall be mailed out simultaneously in order to provide the landowner with as much notice time as possible.

*[(8)]***(7)** If, after being inspected, an area is found by the commission or director to qualify for a bond release, the bond will be reduced proportionately, but not below the eight thousand- dollar ($8,000) minimum required. An area shall qualify for bond release when the operator has fulfilled all reclamation obligations specified in the approved permit, Land Reclamation Act, the rules in this chapter**,** and all other applicable laws.

*[(9)]***(8)** Whenever an increase in acreage permitted requires an increase in bond, additional bond and bond form(s) reflecting the increase shall be submitted as required by this rule.

*[(10)]***(9)** The bond shall be forfeitable upon permit revocation or upon the operator's failure to renew the permit on affected acres not reclaimed or for any violation of these rules. In the event the bond is forfeited, the commission may pursue all legal remedies to obtain the bond and to complete reclamation.

*AUTHORITY: sections 444.767, 444.772, and 444.784, RSMo [Supp. 2004] **2016**. Original rule filed Aug. 2, 1991, effective Feb. 6, 1992. Amended: Filed June 1, 1994, effective Nov. 30, 1994. Amended: Filed April 1, 2004, effective May 30, 2005. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation]* *Missouri Mining* Commission
Chapter 10—Permit and Performance Requirements for Industrial Mineral Open Pit and In-Stream Sand and Gravel Operations

PROPOSED AMENDMENT

10 CSR 40-10.040 Permit Review Process. The director is deleting sections (1) and (2), and renumbering as necessary, and amending new section (1).

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

[(1) If the director does not respond to a permit application within forty-five (45) days of receipt, the application shall be deemed complete.

(2) The director shall make a determination on an application within four (4) weeks after the public comment period provided in 10 CSR 40-10.020(2) expires. The recommendation will be to either issue or deny.

(A) The director shall make a recommendation on a permit application based on the following:

1. The application's compliance with section 444.772, RSMo;

2. The application's compliance with 10 CSR 40-10.020;

3. Consideration of any written comments received during the public notice period from persons who have a direct personal interest in one (1) or more of the factors the commission is required to consider in issuing a permit; and

4. Whether the operator has had a permit revoked, a bond forfeited and has not caused the revocation or forfeiture to be corrected to the satisfaction of the commission.

(B) If the director recommends a denial, the applicant may request a hearing, as provided for in 10 CSR 40-10.080(1)(A).

(C) If the director recommends approval of the application, the permit shall be issued without a hearing, unless a petition is received as provided for in 10 CSR 40-10.080(3)(B).]

*[(3)]***(1)** The director may approve a variance to a permit application or permit amendment when the operation, reclamation**,** or conservation plan deviates from the requirements of sections 444.760–444.790, RSMo and these rules if it can be demonstrated by the operator that—

(A) Conditions present at the mine location warrant the exception;

(B) The protection of the health, safety**,** and livelihood of the public is not reduced;

(C) There is no additional effect to the landowner's or adjacent landowner's property than the effects under a normal permit;

(D) The protection afforded by sections 444.760–444.790, RSMo is not reduced;

(E) The procedure to be used in the review of a request for a variance shall be as follows:

1. The operator shall identify on a map the location of the area(s) that the variance request applies. Such map shall comply with the requirements of 10 CSR 40-10.020(2)(E); and

2. The operator shall list the number of acres involved in the variance request area, the dates that work is to commence and is to be completed, and the nature of the variance request; and

(F) If the director recommends a denial of the variance, the applicant may request a hearing, as provided for in *[10 CSR 40-10.080(1)(A)]* **444.789, RSMo**.

*AUTHORITY: sections 444.767, 444.772, and 444.784, RSMo [Supp. 2004] **2016**. Original rule filed Aug. 2, 1991, effective Feb. 6, 1992. Amended: Filed June 1, 1994, effective Nov. 30, 1994. Amended: Filed April 1, 2004, effective May 30, 2005. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation] Missouri Mining* Commission
Chapter 10—Permit and Performance Requirements for Industrial Mineral Open Pit and In-Stream Sand and Gravel Operations

PROPOSED AMENDMENT

10 CSR 40-10.080 *[Public Meetings,]* **Hearings and Informal Conferences**. The director is deleting sections (1)–(3) and (5) and renumbering as necessary.

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

[(1) Public Meetings.

(A) If the recommendation of the director is for issuance of the permit, and a petition has been filed by an aforementioned person or persons prior to the termination of the public notice time frame, the director shall, within thirty (30) days after the time frame for such request has passed, order that a public meeting be held provided that the applicant agrees. If the applicant does not agree to the public meeting then the petition may be referred to the commission for a formal public hearing as directed by subsection (3)(B) of this rule if the petitioner makes a written request within fifteen (15) days of notification of the denial of the public meeting by the applicant.

(B) If a meeting is ordered by the director and the applicant agrees, it shall be held in a reasonably convenient location for all interested parties. The applicant shall cooperate with the director in making all necessary arrangements for the public meeting.

(C) Only those parties who submitted a written request to the director during the public notice period referred to in subsection (1)(A) of this rule may participate in a public meeting. Anyone may attend a public meeting, however.

(D) The applicant shall be responsible for moderating a public meeting.

(E) Within thirty (30) days after the close of the public meeting, the director shall recommend to the commission approval or denial of the permit.

(F) If the public meeting does not resolve the concerns expressed by the petitioner, then only the petitioner(s) who has requested a public meeting or hearing during the public comment period referred to in subsection (1)(A) of this rule, may, within thirty (30) days after the director renders a recommendation to the commission on the application, make a written request to the Land Reclamation Commission for a formal public hearing.

(G) The commission may grant the petitioner a formal public hearing provided the petitioner has standing for such a hearing.

(2) Establishing Standing for a Formal Public Hearing.

(A) For a formal public hearing to be granted by the Land Reclamation Commission, the petitioner must first establish standing.

(B) The petitioner is said to have standing to be granted a formal public hearing if the petitioner provides good faith evidence of how their health, safety, or livelihood will be unduly impaired by the issuance of the permit. The impact to the petitioner's health, safety, and livelihood must be within the authority of any environmental law or regulation administered by the Missouri Department of Natural Resources.

(C) The director and the applicant have standing and are parties in any formal public hearing whether held at the request of the applicant or at the request of the petitioner.

(3) Application Hearings.

(A) Any operator, whose permit application has been denied, may request a hearing before the Land Reclamation Commission if s/he notifies the director within fifteen (15) days of receipt of the notification of permit denial.

(B) The burden of establishing an issue of fact regarding the impact, if any, of the permitted activity on a hearing petitioner's health, safety or livelihood shall be on that petitioner by competent and substantial scientific evidence on the record. Furthermore, the burden of establishing an issue of fact whether past noncompliance of the applicant is cause for denial of the permit application shall be upon a hearing petitioner and/or the director by competent and substantial scientific evidence on the record. Once such issues of fact have been established, the burden of proof for those issues is upon the applicant for the permit.

(C) Any public hearing pursuant to this section shall be conducted according to the procedures outlined in section (5) of this rule, Procedure for Hearings Before the Commission.

(D) If the commission finds, based upon competent and substantial scientific evidence on the record, that a hearing petitioner's health, safety or livelihood will be unduly impaired by impacts from activities that the recommended mining permit authorizes, the commission may deny the permit.

(E) If the commission finds, based upon competent and substantial scientific evidence on the record, that the operator has, during the five (5)-year period immediately preceding the date of the permit application, demonstrated a pattern of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance, the commission may deny such permit, provided however:

1. Such past acts of noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a reasonable likelihood of future acts of noncompliance.

2. Such past acts of noncompliance in Missouri shall not be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless the noncompliance has caused or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor.

(F) If a hearing petitioner or the director demonstrates either present acts of noncompliance or a reasonable likelihood that the applicant or the operations of associated persons or corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the noncompliance requirement in this subsection, but such basis must be developed by multiple noncompliances of any environmental law administered by the Missouri Department of Natural Resources at any single facility in Missouri where such noncompliances resulted in harm to the environment or impaired the health, safety, or livelihood of persons outside the facility.

(G) For any permit applicant that has not been in business in Missouri for five (5) years immediately preceding the date of application, the commission may review the record of noncompliance with environmental laws in any state where the applicant has conducted business during the past five (5) years.

(H) Any decision of the commission made pursuant to this rule is subject to judicial review as provided in Chapter 536, RSMo. No judicial review shall be made available until all administrative remedies are exhausted.]

*[(4)]***(1)** Other Hearings.

(A) If an owner of land that has been affected files a petition in opposition to the release of an operator's bond within thirty (30) days of the receipt date of the application for bond release, a hearing may be held to determine if the site meets bond release standards. The landowner shall make a demonstration that a performance standards(s) has/have not been met at the site in question in order for the commission to determine if a hearing will be held.

(B) If the director recommends denial of an application for bond release, the operator may request a hearing within thirty (30) days of the receipt of the denial.

(C) Within fifteen (15) days of being issued a formal complaint, the operator may request a hearing before the *[Land Reclamation]* **Missouri Mining** Commission at its regular meeting.

(D) For any decision of the commission made pursuant to a hearing held under this section, judicial review is provided in Chapter 536, RSMo. No judicial review shall be available, however, until and unless all administrative remedies are exhausted. The hearing shall also adhere to the requirements of section 444.789, RSMo and corresponding regulations.

(E) For all hearings, the *[Land Reclamation]* **Missouri Mining** Commission shall issue these orders as shall be appropriate and shall give notice to the operator and, if applicable, to the person requesting the hearing.

(F) All final orders of the commission shall be subject to judicial review. Judicial review shall not become available until all administrative remedies are exhausted.

[(5) Procedure for Hearings Before the Commission.

(A) Any hearing shall be of record and shall be a contested case.

(B) Those involved in the hearing may make oral argument, introduce testimony and evidence and cross-examine witnesses.

(C) The hearing shall be before—

1. The commission as a body;

2. One (1) designated commission member; or

3. A member of the Missouri Bar or a hearing officer.

(D) The full commission shall make the final decision as to the results of the hearing and shall issue written findings of fact and conclusions of law.

(E) Any member of the commission may issue, in the name of the commission, notice of hearing and subpoenas. The rules of discovery that apply to any civil case shall apply to hearings held by the commission.

(F) The commission immediately shall notify the operator of its decision by certified mail.]

*[(6)]***(2)** Informal Conferences.

(A) Within fifteen (15) days of receipt of a notice of violation, an operator may request an informal conference with the director at a location of the director's discretion, unless the operator has been cited for failure to obtain a permit or for failure to renew a permit, and has been issued a notice of violation under 10 CSR 40-10.070(1). The director shall give as much advance notice as practicable of the informal conference to the operator and to the person who filed the complaint that led to the notice of violation, if applicable.

1. Within thirty (30) days of the close of the informal conference, the director shall affirm, modify**,** or vacate the notice or order in writing. Copies of the decision shall be sent to the operator.

(B) An informal conference may be requested by any person whose property, safety**,** or health are adversely affected by a violation of the Land Reclamation Act and who requests the director for this informal conference. Within thirty (30) days of the informal conference, the director shall order the operator to adopt corrective measures as are necessary.

(C) Informal conferences are conducted by the director who shall take information from any person in attendance.

(D) Informal Assessment Conference.

1. The director shall arrange for an informal conference to review the proposed assessment or reassessment upon written request of the person to whom the notice or order was issued. If the request is received within fifteen (15) days from either the date of issuance of the proposed assessment/reassessment, the informal conference shall be held within sixty (60) days of the receipt of the written request.

2. Failure to hold these conferences within that sixty (60)-day time period shall not be grounds for dismissal.

3. The commission shall assign the director to hold the informal assessment conference. The conference shall not be governed by Chapter 536, RSMo regarding the requirements for formal adjudicatory hearings.

4. The director shall notify the person issued the notice or order, any person who caused, directly or indirectly, the issuance of the notice or order and any interested persons of the time and place of the conference.

5. The director shall consider all relevant information on the

violation within thirty (30) days after the conference is held. The director either shall—

A. Issue a proposed settlement agreement that has been prepared and signed by him/herself to the person issued the notice or order; or

B. Affirm, raise, lower**,** or vacate the proposed penalty.

6. The director promptly shall serve the person assessed with the notice of his/her action in the form of a settlement agreement and a cover letter explaining the action or a letter and new worksheet, if required, if the penalty has been affirmed, vacated, raised**,** or lowered.

7. If the settlement agreement is signed by the person issued the notice or order, the person assessed will be deemed to have waived all rights of further review of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement, the settlement agreement shall contain a clause to this effect.

8. If the settlement agreement is entered into, the agreement shall be proposed to the commission for approval or disapproval.

9. If approved, the commission shall send the person issued the notice or order a copy of the commission order and request for payment within thirty (30) days.

10. If the settlement agreement is disapproved or if payment is not made within thirty (30) days, the assessments determined by the penalty points shall be proposed to the commission at the next regularly scheduled commission meeting.

11. If the person issued notice or order does not accept a settlement agreement or any other action of the director which is a result of the informal assessment conference, s/he may request a formal review before the commission. The request shall be received by the commission within thirty (30) days of the receipt of the director's decision from the conference.

12. At any formal review proceeding, no evidence as to statements made or evidence produced by any one (1) party at an informal conference or resultant settlement agreement shall be introduced as evidence by another party or to impeach a witness.

*AUTHORITY: sections 444.767, 444.772, and 444.784, RSMo [Supp. 2004] **2016.** Original rule filed Aug. 2, 1991, effective Feb. 6, 1992. Amended: Filed June 1, 1994, effective Nov. 30, 1994. Amended: Filed April 1, 2004, effective May 30, 2005. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—*[Land Reclamation] Missouri Mining* Commission
Chapter 10—Permit and Performance Requirements for Industrial Mineral Open Pit and In-Stream Sand and Gravel Operations

PROPOSED AMENDMENT

10 CSR 40-10.100 Definitions. The director is deleting sections (2), (5), (8), (9), (19), (21), (23), (24), (27), (28), and (30), renumbering as necessary, and amending new section (14).

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

[(2) Affected land. The pit area or area from which overburden has been removed or upon which overburden has been deposited after September 28, 1971. When mining is conducted underground, affected land means any excavation or removal of overburden required to create access to mine openings, except that areas of disturbance encompassed by the actual underground openings for air shafts, portals, adits and haul roads in addition to disturbances within fifty feet (50') of any openings for haul roads, portals or adits shall not be considered affected land. Sites which exceed the excluded areas by more than one (1) acre for underground mining operations shall obtain a permit for the total extent of affected lands with no exclusions as required under sections 444.760-444.790, RSMo.]

*[(3)]***(2)** Amended permit. Involves adding an area to an existing permit area where the area added is already included in an approved long-term operation and reclamation plan. An amended permit does not require a public notice.

*[(4)]***(3)** Applicable law. That which an operator is required to adhere to with regard to any environmental law or regulation that the Missouri Department of Natural Resources administers.

[(5) Commission. The Land Reclamation Commission in the Department of Natural Resources.]

*[(6)]***(4)** Conference, conciliation**,** and persuasion (CC&P). The administrative means employed by the director or his/her representative to resolve or prevent an alleged violation of the law, rules, permit**,** or conditions of the bond, including, but not limited to, informal conversations, telephone conversations**,** and letters issued by the director.

*[(7)]***(5)** Consolidated material. Any naturally formed aggregate or mass of mineral matter which is firm and coherent and that cannot be excavated by normal construction equipment. Material requires blasting to be excavated.

[(8) Director. The staff director of the Land Reclamation Commission.

(9) Fill dirt. Material excavated for use as construction fill which does not have a distinctive physical property matching one of the minerals listed under 10 CSR 40-10.010(1) and which will not be refined into one of those minerals. Backfill material for use in completing reclamation is not included in this definition.]

*[(10)]***(6)** Flood plain. Geographic areas susceptible to periodic inundation from overflow of natural waterways.

*[(11)]***(7)** Habitual violator. A person, permittee**,** or operator that has established a pattern of violations of any requirements of the Land Reclamation Act, its corresponding regulations**,** or the permit is defined here as any person or permittee who has—

(A) Three (3) similar violations in any six (6) or less inspections;

(B) Five (5) violations in any ten (10) or fewer inspections; or

(C) Three (3) or more violations in three (3) consecutive inspections.

*[(12)]***(8)** Industrial uses. An area reclaimed for industrial purposes that is properly stabilized from erosion by means other than vegetation.

*[(13)]***(9)** In-stream sand and gravel operator. An operator whose entire extraction operation occurs on areas between the defined river or creek banks that are covered by water or are saturated by water throughout the entire year.

*[(14)]***(10)** Lateral support. Undisturbed material left in place, with unconsolidated material left in place at no more than a forty degree (40°) grade, to prevent sloughing of the adjacent right-of-way of a public road, street**,** or highway.

*[(15)]***(11)** Mine expansion. Involves expansions to the area beyond the area described in an existing operation and reclamation plan. With the exception of a permit fee, a mine expansion requires an application equal to a new permit. An expansion may be requested at any time during the term of an existing permit and requires the filing of a new public notice.

*[(16)]***(12)** Mineral or industrial mineral. A constituent of the earth in a solid state which, when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form as a chemical, an energy source or raw material for manufacturing**,** or construction material. For the purposes of this section, this definition also includes barite, tar sands shale, sand, sandstone, limestone, granite, clay, traprock**,** and oil shales, but does not include iron, lead, zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural oil**,** or gas, together with other chemicals recovered.

*[(17)]***(13)** New permit. Permits issued for the first time where a new permit number is assigned. All requirements of 10 CSR 40-10.020 apply.

*[(18)]***(14)** Notice of violation. The document that is sent by the director to the operator describing the nature of a violation(s) of any law, rule, permit**,** or condition of the bond, the corrective measures to be taken to abate the violation(s)**,** and a time period for abatement of the violation(s). This definition shall include the notice itself, any modification, termination or vacation of the notice of violation itself by subsequent actions taken by the director or the commission.

[(19) Operator. Any person, firm or corporation engaged in and controlling a surface mining operation.]

*[(20)]***(15)** Overburden. *[All of the earth and other materials which lie above natural deposits of minerals and also means the earth and other materials disturbed from their natural state in the process of surface mining.]* This definition does not include the mineral that is being mined at the surface mining operation.

[(21) Peak. A projecting point of overburden created in the surface mining process.]

*[(22)]***(16)** Permit period. The length of time for which the permit is issued, a one (1)-year period.

[(23) Pit. The place where minerals are being or have been extracted by surface mining.

(24) Refuse. All waste material directly connected with the cleaning and preparation of substance mined by surface mining.]

*[(25)]***(17)** Renewed permit. Involves only extending the term of an existing permit by another year.

*[(26)]***(18)** Revised operations. Involves the substantial revision of the mining methods of an existing operation and reclamation plan. This revision does not involve the addition of new areas to the permit. A revision is substantial if the changes clearly exceed the scope of activity authorized by the permit in effect at the time or measurably increases the potential affects on public health, safety**,** and livelihood.

[(27) Ridge. A lengthened elevation of overburden created in the surface mining process.

(28) Site or mining site. Any location or group of associated locations where minerals are being surface mined by the same operator.]

*[(29)]***(19)** Surety bond. A joint undertaking by the permittee as principal and the surety where the surety is obligated to pay Missouri the face amount of the bond should the reclamation not be completed by the permittee.

[(30) Surface mining. The mining of minerals for commercial purposes by removing the overburden lying above natural deposits of the minerals, and mining directly from the natural deposits exposed and shall include mining of exposed natural deposits of these minerals over which no overburden lies and, after August 28, 1990, the surface effects of underground mining operators for these minerals.]

*[(31)]***(20)** Unconsolidated material. Material which can be removed and handled by normal construction equipment without blasting.

*[(32)]***(21)** Violation.

(A) Major Violation. The violation poses a high likelihood of pollution, creation of health or safety hazard or public nuisance; or the actions have or may have a substantial adverse effect on the purposes of or procedures for implementing the Land Reclamation Act and its corresponding regulations or a combination of these.

(B) Minor Violation. The violation poses a low likelihood of pollution, creation of health or safety hazard or public nuisance; or the actions have or may have a low adverse effect on the purposes of or procedures for implementing the Land Reclamation Act and its corresponding regulations or it has a minor potential for harm and a minor deviation from the requirements of the law and regulations or a combination of these.

*AUTHORITY: sections 444.767, 444.772, and 444.784, RSMo [Supp. 2004] **2016**. Original rule filed Aug. 2, 1991, effective Feb. 6, 1992. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 26, 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 Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 3—Administrative Penalties

PROPOSED AMENDMENT

10 CSR 45-3.010 Administrative Penalty Assessment. The director

is amending subsections (1)(A)–(C) and paragraphs (2)(B)1.–6. and renumbering as necessary.

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

(1) General Provisions.

(A) *[Pursuant to section 444.376, RSMo, and in addition to any other remedy provided by law, upon determination by the department that a provision of sections 444.350–444.380, RSMo, or a standard, limitation, order or rule or regulation promulgated, or a term or condition of any permit has been violated, the department may issue an order assessing an administrative penalty upon the violator.]* The amount of the administrative penalty will be determined according to section (3) of this rule. In no event may the total penalty assessed per day of violation exceed the statutory maximum specified in section 444.375, RSMo.

[(B) An administrative penalty shall not be imposed until the department has sought to resolve the violations through conference, conciliation and persuasion and shall not be imposed for minor violations. If the violation is resolved through conference, conciliation and persuasion, no administrative penalty shall be assessed unless the violation has caused, or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is not a minor violation.]

*[(C)]***(B)** An order assessing an administrative penalty shall be served upon the operator, owner**,** or appropriate representative through United States Postal Service certified mail, return receipt requested, a private courier or messenger service which provides verification of delivery**,** or by hand delivery to the operator's or owner's residence or place of business. An order assessing an administrative penalty shall be considered as appropriately served if verified receipt is made by the operator's or owner's appropriate representative. A refusal to accept, or a rejection of certified mail, private courier or messenger service delivery**,** or by hand delivery of an order assessing an administrative penalty constitutes service of the order.

*[(D)]***(C)** The department may at any time withdraw without prejudice any administrative penalty order.

*[(E)]***(D)** An order assessing an administrative penalty shall describe the nature of the violation(s), the amount of the administrative penalty being assessed**,** and the basis of the penalty calculation.

(2) Definitions.

(A) Definitions for key words used in this rule may be found in 10 CSR 45-10.012.

(B) Additional definitions specific to this rule are as follows:

[1. Conference, conciliation and persuasion—A process of verbal or written communications, consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;]

*[2.]***1.** Economic benefit—Any monetary gain which accrues to a violator as a result of noncompliance;

*[3.]***2.** Gravity-based assessment—The degree of seriousness of a violation taking into consideration the risk to human health and the environment posed by the violation and considering the extent of deviation from sections 444.350–444.380, RSMo;

[4. Minor violation—A violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency (U.S. EPA) as other than minor;]

*[5.]***3.** Multiple violation penalty—The sum of individual administrative penalties assessed when two (2) or more violations are included in the same complaint or enforcement action; and

*[6.]***4.** Multi-day violation—A violation which has occurred on or continued for two (2) or more consecutive or nonconsecutive days.

*AUTHORITY: section 444.355, RSMo [1994] **2016**. Original rule filed Dec. 31, 1991, effective June 25, 1992. Rescinded and readopted: Filed Jan. 19, 2000, effective Sept. 30, 2000. Amended: Filed March 26, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments must be received within seven (7) days after the conclusion of the public hearing. The public hearing will be held on June 20, 2018 at 1 p.m. at the Lewis and Clark State Office Building 1101 Riverside Drive, Jefferson City MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 6—Permits

PROPOSED AMENDMENT

10 CSR 45-6.020 Closure Plan and Inspection-Maintenance Plan—General Requirements. The director is deleting section (1) and amending renumbered section (1).

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

[(1) To comply with the Metallic Minerals Waste Management Act, sections 444.352–444.380, RSMo Supp. 1989 and to ensure that metallic mineral wastes are contained in an environmentally safe manner, the operator of a metallic minerals waste management area must obtain approval of a method of closure and an inspection-maintenance plan following closure.]

*[(2)]***(1)** Consistent with sections 444.362 and 444.365, RSMo *[Supp. 1989]*, the requirements of applicable state environmental programs and permits shall be included in the closure and inspection-maintenance plans. Compliance with these requirements will be considered a condition of the Metallic Minerals Waste Management Permit. Existing environmental programs, permits, statutes**,** and rules include, but are not limited to:

(A) The Water *[Pollution Control]* **Protection** Program's—

1. National Pollutant Discharge Elimination System (NPDES) Permit, Chapter 644, RSMo and 10 CSR 20-6.010;

2. 401/404 approvals, Federal Clean Water Act and section 401, RSMo;

3. Land application letters of approval Chapter 644, RSMo; and

4. Underground Injection Control (UIC) Permit, Chapters 577

and 644, RSMo, 10 CSR 20-6.070**,** and 10 CSR 20-6.090;

(B) The *[Division of Geology and Land]* **Missouri Geological** Survey's Dam and Reservoir Safety—

1. Registration Permit, section 236.440, RSMo and 10 CSR 22-3.030;

2. Construction Permit, section 236.435, RSMo and 10 CSR 22-3.040; and

3. Safety Permit, section 236.440, RSMo and 10 CSR 22-3.050;

(C) The Solid Waste Management Program's—

1. Solid Waste Disposal Area Permit, sections 260.200—260.245, RSMo and 10 CSR 80-1.010—10 CSR 80-4.010;

2. Solid Waste Processing Facility Permit, sections 260.200–260.245, RSMo, 10 CSR 80-1.010, 10 CSR 80-2.020**,** and 10 CSR 80-5.010; and

3. Waste Tire Requirements, section 206.200–206.345, RSMo and 10 CSR 80-8.020–10 CSR 80-8.060;

(D) The Air Pollution Control Program's—

1. Major and Minor Source Permits, section 643.075, RSMo and 10 CSR 10-6.060;

2. *De minimis* Permit, section 643.075, RSMo and 10 CSR 10-6.060; and

3. Open Burning Permit, Chapter 643, RSMo and*[,]* 10 CSR 10-2.100, 10 CSR 10- 3.030, 10 CSR 10-4.090, 10 CSR 10-5.070**,** and 10 CSR 10-6.060;

(E) The Public Drinking Water *[Program's]* **Branch's** permit to construct and permit to dispense drinking water, sections 640.110.1 and 640.115, RSMo and 10 CSR 60-10.010 and 10 CSR 60-3.010;

(F) The Land Reclamation Program's permit to engage in surface mining and sections 444.500—444.786, RSMo; and

(G) The Hazardous Waste *[Management]* Program's—

1. Hazardous Waste Generator Notification Requirements, section 260.380, RSMo and 10 CSR 25-5;

2. Hazardous Waste Resource Recovery Certification, section 260.350–260.434, RSMo and 10 CSR 25-9; and

3. Hazardous Waste Facility Permit, section 260.350, RSMo and 10 CSR 25.

*[(3)]***(2)** If it is determined that existing environmental laws and regulations are not adequate to achieve the objectives of the closure and inspection-maintenance plans, the director may establish additional permit conditions as may be necessary to achieve those objectives, taking cost, benefit**,** and technical feasibility into account.

*[(4)]***(3)** The definitions, provisions and guidelines in 10 CSR 45 shall be used with and, in case of conflict, shall take precedence over other regulations listed in section *[(2)]* **(1)** of this rule.

*AUTHORITY: section 444.380, RSMo [Supp. 1999] **2016**. Original rule filed Oct. 2, 1990, effective April 29, 1991. Amended: Filed Jan. 19, 2000, effective Sept. 30, 2000. Amended: Filed March 26, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments must be received within seven (7) days after the conclusion of the public hearing. The public hearing will be held on June 20, 2018 at 1 p.m. at the Lewis and Clark State Office Building 1101 Riverside Drive, Jefferson City MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 8—Technical Guidelines

PROPOSED AMENDMENT

10 CSR 45-8.010 General. The director is deleting section (1) and renumbering as necessary.

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

[(1) A completed application for a Metallic Minerals Waste Management Permit shall comply with sections 444.362 and 444.365, RSMo (Cum. Supp. 1989) which set the purpose, requirements and objectives of the required closure and inspection-maintenance plans.]

*[(2)]***(1)** The closure and inspection-maintenance plans shall establish and explain the technical processes and steps proposed to accomplish and maintain closure. Issues expected to be addressed shall include, but should not be limited to:

(A) The design, construction**,** and maintenance of waste control structures, tailings dams, waste stockpiles**,** and supporting facilities;

(B) The characterization of waste products;

(C) The methods for control and protection of surface water;

(D) The methods for protection of groundwater and aquifers;

(E) The geology and seismicity of the area;

(F) The potential for subsidence;

(G) The reuse and off-site removal of wastes; and

(H) The surface reclamation of waste management areas.

*[(3)]***(2)** Consistent with section 444.362, RSMo and 10 CSR 45-6.020, the owner/operator shall comply with the appropriate technical requirements, standards**,** and guidelines published in the rules of other state and federal environmental programs. Supplemental guidelines for preparation, review**,** and approval of closure and inspection-maintenance plans are—

(A) 10 CSR 45-8.020 Groundwater Protection;

(B) 10 CSR 45-8.030 Metallic Minerals Waste Management Control Structures; and

(C) 10 CSR 45-8.040 Reclamation-Reuse.

*AUTHORITY: sections 444.362 and 444.380, RSMo [Supp. 1989] **2016**. Original rule filed Oct. 2, 1990, effective April 29, 1991. Amended: Filed March 26, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments must be received within seven (7) days after the conclusion of the public hearing. The public hearing will be held on June 20, 2018 at 1 p.m. at the Lewis and Clark State Office Building 1101 Riverside Drive, Jefferson City MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 8—Technical Guidelines

PROPOSED AMENDMENT

10 CSR 45-8.030 Metallic Minerals Waste Management Structures. The director is deleting sections (1) and (2) and renumbering thereafter.

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

[(1) Definitions. Definitions as set forth in 10 CSR 45-2.010 shall apply to those terms used in this rule unless the context clearly requires otherwise.

(2) Dams that are thirty-five feet (35') or greater in height are required to obtain a permit in accordance with sections 236.400–236.500, RSMo (1986), referred to in this rule as the Missouri Dam Safety Act. The requirements for obtaining a Dam Safety Permit are given in 10 CSR 22-1.010–10 CSR 22-4.020. Tailings dams that are permitted in accordance with the Missouri Dam Safety Act will be subject to the provisions of the permit during the mining, closure and post-closure phases of the operation. The Metallic Minerals Waste Management application must include a copy of the valid dam construction, registration or safety permit for each regulated dam within the waste management areas.]

*[(3)]***(1)** For dams located in metallic minerals waste management areas that are constructed after the effective date of this regulation and are less than thirty-five feet (35') in height, the operator shall certify using standards that are currently acceptable and available to the engineering profession that the structures meet the requirements for spillway capacity, slope stability, correction of observable defects, maintenance**,** and inspection in order to ensure the continued integrity of the structure.

*[(4)]***(2)** For dams located in metallic minerals waste management areas that were constructed before the effective date of this regulation and are less than thirty-five feet (35') in height, the operator shall certify using standards that are currently acceptable and available to the engineering profession that the structures meet the requirements for spillway capacity, correction of observable defects**,** and maintenance and inspection.

*[(5)]***(3)** Sloped faces of slag waste piles or other waste management control structures shall be maintained according to the lines and gradients shown on the approved permit application. Any slope failures, as evidenced by scarp formation, sloughing, bulging**,** or other indications, shall be reported to the director in writing within ten (10) days of the time when the failure is first noticed. Upon review what corrective action is to be taken. Corrective action may include repair and stabilization of the failed area.

*[(6)]***(4)** Sloped faces that experience erosion shall be repaired by the operator on an on-going basis. The operator shall keep a record of all these repairs and make these records available to the director upon request. No repairs shall be made that would result in significant deviances from the lines and grades shown on the approved permit application without written approval of these repairs by the director. Areas that experience recurring erosion may require special erosion control measures, such as application of revetment materials, regrading and so forth. The director and operator will determine the need for these measures during the review of the closure plan. The operator shall prepare plans and specifications for measures in accordance with practices reputable and appropriate in the engineering, geologic**,** and construction professions. A copy of these plans and specifications will be provided to the director for review. The operator shall not begin construction of erosion control measures without written approval of that work from the director.

*[(7)]***(5)** The operator shall provide a judgment of the effect of subsidence and earthquake loads on the long-term stability and integrity of all tailings dams, slag piles**,** and other waste management control structures located within the boundary of the waste management area. The judgment shall be based upon engineering analysis and experience in accordance with practices reputable and in current use in the engineering and geologic professions. The operator and director shall determine the need for remedial measures to counteract the effects of potential subsidence.

AUTHORITY: sections 444.362 and 444.380, RSMo [Supp. 1989] ***2016****. Original rule filed Oct. 2, 1990, effective April 29, 1991. Amended: Filed March 26, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments must be received within seven (7) days after the conclusion of the public hearing. The public hearing will be held on June 20, 2018 at 1 p.m. at the Lewis and Clark State Office Building 1101 Riverside Drive, Jefferson City MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 8—Technical Guidelines

PROPOSED AMENDMENT

10 CSR 45-8.040 Reclamation-Reuse. The director is deleting sections (1) and (4) and renumbering as necessary.

PURPOSE: This rule amendment follows the review conducted pursuant to Executive Order 17-03. The amendment proposes to remove language that repeats statute or is obsolete.

[(1) Compliance with sections 444.362 and 444.365, RSMo (Cum. Supp. 1989) requires establishment of final designated uses for waste management areas. The methods of land reclamation proposed to achieve this goal shall be a condition to the permit. Because of the unique nature of each waste management facility, specific permit requirements shall be negotiated within the framework established by sections 444.352–444.380, RSMo (Cum. Supp. 1989.)]

*[(2)]***(1)** Land reclamation methods shall be established so that—

(A) Wind erosion and dust generation will be minimized; and

(B) Runoff and seepage are managed to minimize negative environmental effects and changes in the hydrologic balance.

*[(3)]***(2)** Dust shall be controlled by techniques such as water spray, chemical binders, anchored mulches, vegetation**,** and physical containment.

[(4) Alternatives to land reclamation such as off-site removal or processing for beneficial use shall be described in the closure and inspection-maintenance plans and shall be included in the permit.]

AUTHORITY: sections 444.362 and 444.380, RSMo [Supp. 1989]

***2016**. Original rule filed Oct. 2, 1990, effective April 29, 1991. Amended: Filed March 26, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Natural Resources, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments must be received within seven (7) days after the conclusion of the public hearing. The public hearing will be held on June 20, 2018 at 1 p.m. at the Lewis and Clark State Office Building 1101 Riverside Drive, Jefferson City MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 3—Historic Preservation

PROPOSED AMENDMENT

10 CSR 90-3.010 Definitions—Revolving Fund. The department is amending section (1).

PURPOSE: The proposed amendments are administrative in nature and pertain to the administration of the Historic Preservation Revolving Fund.

(1) As used in this chapter, unless the context clearly indicates otherwise, the following terms *[shall mean]* **are defined as follows**:

(D) Fund means the Historic Preservation Revolving Fund **pursuant to 253.400, RSMo et seq.**;

(E) Historic property or property means any building, structure, district, area**,** or site that is significant in the history, architecture, archaeology**,** or culture of this state, its communities or this country, which **is listed or** is eligible for *[nomination to]* **listing in** the National Register of Historic Places **defined at 36 CFR Part 60.4**;

(I) Rehabilitation means the act or process of *[returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values or, in the alternative, those repairs, replacement or possible new construction necessary to make a structure habitable and reusable according to modern standards and building codes]* **making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values in compliance with the Treatment Standards**;

(J) Restoration means the act or process of accurately *[recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work]* **depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-compliant work to make properties functional is appropriate within a restoration project in compliance with the Treatment Standards**;

(K) Stabilization means the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of unsafe or deteriorated property while maintaining the essential form as it exists at present or, in the alternative, those repairs which are necessary to keep a structure from violating local building codes or being a public safety hazard; *[and]*

(L) Staff means the department's **State** Historic Preservation *[Program staff.]* **Office funded employees;**

(M) State Historic Preservation Office is a program of the Department of Natural Resources, Division of State Parks, responsible for administering the statewide historic preservation program, including administration of the Historic Preservation Revolving Fund; and

(N) Treatment Standards refer to the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties at 36 CFR Part 68, as revised.

*AUTHORITY: section 253.035, RSMo [Supp. 1993] **2016**. Original rule filed May 28, 1992, effective Jan. 15, 1993. Amended: Filed March 26, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Toni Prawl, State Historic Preservation Office, PO Box 176, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for June 20, 2018, at 1:00 pm, at the Department of Natural Resources, 1101 Riverside Drive, Jefferson City, MO 65101.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 3—Historic Preservation

PROPOSED AMENDMENT

10 CSR 90-3.020 Acquisition of Historic Property. The department is amending section (1).

PURPOSE: The proposed amendments are administrative in nature and pertain to the administration of the Historic Preservation Revolving Fund.

(1) **These are** *[T]*the *[following]* minimum requirements *[must be met]* for acquisition of any interest in a property by the fund:

(A) **Eligibility.** The property must be *[significant to the state's historic resources and must be listed on or considered eligible for listing on the National Register. Properties may be listed or considered eligible for listing either individually or as a contributing structure in a district]* **considered a historic property**.

[1. Properties not already listed on the National Register must be reviewed and deemed eligible for listing by a majority of staff reviewers.

2. Properties deemed eligible for listing on the National Register must meet the requirements outlined in the Code of Federal Regulations, 36 CFR 60.4.]

*[3.]***1.** Any property *[previously]* deemed ineligible **for the National Register** by **the majority of State Historic Preservation Office** staff reviewers *[must be reconsidered and deemed eligible, after review of]* **may be submitted for reconsideration with**

additional or new information **and if deemed eligible**, *[or actually listed on the National Register, before it can]* **may** be considered for acquisition or other assistance by the fund. Final determination of National Register eligibility shall rest with the *[Historic Preservation Program director]* **State Historic Preservation Officer**; and

*AUTHORITY: section 253.035, RSMo [Supp. 1993] **2016**. Original rule filed May 28, 1992, effective Jan. 15, 1993. Amended: Filed March 26, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Toni Prawl, State Historic Preservation Office, PO Box 176, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for June 20, 2018, at 1:00 pm, at the Department of Natural Resources, 1101 Riverside Drive, Jefferson City, MO 65101.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 3—Historic Preservation

PROPOSED AMENDMENT

10 CSR 90-3.030 Procedures for Making Loans. The department is amending section (4).

PURPOSE: The proposed amendments are administrative in nature and pertain to the administration of the Historic Preservation Revolving Fund.

(4) Loans *[shall]* **will** be *[made]* **considered** upon application submitted to and approved by the department. Each application for a loan must provide all available information relating to the following loan criteria:

(A) Economic Feasibility—applicants must provide a detailed outline of the project being funded and adequately demonstrate the ability to generate sufficient income from the project to repay the requested loan. Adequate demonstration may be established by submission of the following information:

1. Total amount of funding required to complete the project;
2. Total amount of funding being requested from the revolving fund;
3. How and why the money being requested from the fund is necessary for preservation of the property's historic character;
4. How additional funding for the project will be obtained, including what other funding sources money has been requested from, what other sources have approved funding for the project, and the terms and conditions of other funding;
5. Evidence of the current appraised value of the property (preferably by an appraisal less than six (6) months old) and *[the]* **estimated** appraised value of the completed project*[, if available]*;
6. A complete description of the project and intended use of all funds, including description of the current condition and use of the property, description of proposed rehabilitation and use of the property, all contractor's cost estimates for rehabilitation and all architect's plans for rehabilitation;
7. Proposed methods of loan repayment (for example, if repayment depends on fund-raising, a complete description of fund-raising plans);
8. Proposed collateral to secure repayment to the fund; and
9. Any other information pertinent to the feasibility of the proposed project or repayment of the loan from the fund;

*AUTHORITY: section 253.035, RSMo [Supp. 1993] **2016**. Original rule filed May 28, 1992, effective Jan. 15, 1993. Amended: Filed March 26, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Toni Prawl, State Historic Preservation Office, PO Box 176, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for June 20, 2018, at 1:00 pm, at the Department of Natural Resources, 1101 Riverside Drive, Jefferson City, MO 65101.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 1—Organization

PROPOSED AMENDMENT

20 CSR 2030-1.020 Board Compensation. The board is amending the purpose statement and sections (1) and (3).

PURPOSE: This rule is being amended to add the word "Professional" in front of landscape architects and to increase the compensation sum of Board Members due to passage of SB 809.

*PURPOSE: This rule fixes the compensation for the members of the Missouri Board [of] **for** Architects, Professional Engineers, Professional Land Surveyors, and **Professional** Landscape Architects in compliance with the mandates of section 327.051.4., RSMo.*

(1) Each member of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and **Professional** Landscape Architects *[shall]* **is authorized to** receive as compensation the sum of *[fifty dollars ($50)]* **seventy-five dollars ($75)** for each day that **the** member devotes to the affairs of the board.

(3) *[No r]***R**equests for the compensation provided *[shall]* **may** be processed for payment *[unless]* **only when** sufficient funds are available for that purpose within the appropriations for this board.

*AUTHORITY: sections 327.041[, RSMo Supp. 2005] and 327.051.4, RSMo [2000] **2016**. This rule originally filed as 4 CSR 30-1.020. Emergency rule filed Sept. 14, 1981, effective Sept. 24, 1981, expired Jan. 22, 1982. Original rule filed Sept. 14, 1981, effective Dec. 11, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 30, 2018.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately seven thousand five hundred dollars ($7,500) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional
Division 2110 - Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 1 - Organization
Proposed Amendment to 20 CSR 2030-1.020 Board Compensation

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost	
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		**$7,500**
	Total Cost Annually for the Life of the Rule	**$7,500**

III. WORKSHEET

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
15	Board Member Compensation (Compensation for Board Meetings @ 4 meetings per yr @ 2 days @ $25 per day increase)	$3,000
15	Board Member Compensation (Compensation for Weekly Review @ 7 days @ $25 per day increase)	$2,625
15	Board Member Compensation (Compensation for 10 Conference Calls @ 5 days @ $25 per day increase)	$1,875
	Estimated Cost of Compliance During the First Year of Implementation	**$7,500**

IV. ASSUMPTION

1. The board currently incurs the above expenses for board meetings based on 327.051.4, RSMo. This fiscal note is to meet the requirements of section 536.205, RSMo, which requires the publication of a fiscal note for proposed rulemaking.
2. Board members meet face-to-face, at a minimum, four times per year for two days per meeting.
3. The board averages approximately ten (10) conference calls per year, each lasting one hour in duration or the equivalent of 5 days of work.
4. Board members receive a weekly packet of board materials (consisting of 130 pages on average) every Friday for their review or the equivalent of 5 days of work.
5. It is anticipated that the total costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 1—Organization

PROPOSED AMENDMENT

20 CSR 2030-1.030 Procedural Rules. The board is amending both sections of the rule.

PURPOSE: Since the board meets quarterly, this rule is being amended to delete the sixty (60) day date restriction for referrals.

(1) In accordance with section 327.041, RSMo, *[any]* **an** interpretation*[s]* of Chapter 327, RSMo *[to]* **may** be made by the board *[shall have been]* **if** considered by the entire board, or quorum as provided by law, and *[shall have been]* adopted by an affirmative vote of the board or quorum, and so certified by the board chairman*[, before it is considered an official act by the board]*.

(2) *[Any]* **When an** interpretation of Chapter 327, RSMo and rules of the board adopted pursuant thereto *[which]* affects only one (1) division of the board *[shall first be considered by]* the division so affected*[. That division]* shall prepare the facts pertaining to the matter under consideration and adopt a division recommendation by majority vote *[of the division within sixty (60) days from the date of referral to the division]*. *[The]* **Upon referral of the** facts and division recommendation *[shall then be referred]* to the full board or quorum, *[for]* **the board may take** such action the board *[may]* deem**s** appropriate under applicable law and rules adopted by the board.

*AUTHORITY: section 327.041, RSMo [1986] **2016**. This rule originally filed as 4 CSR 30-1.030. Original rule filed July 15, 1987, effective Oct. 11, 1987. Moved to 20 CSR 2030-1.030, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed March 30, 2018.*

PUBLIC COST: This proposed amendment will save state agencies or political subdivisions approximately two hundred forty-three dollars and eighty-eight cents ($243.88) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2110 - Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 1 - Organization
Proposed Amendment to 20 CSR 2030-1.030 - Procedural Rules

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Savings	
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		**$243.88**
	Total Savings Annually for the Life of the Rule	**$243.88**

III. WORKSHEET

STAFF	PER DIEM	COST PER HOUR	NUMBER OF HOURS	COST PER MEETING	NUMBER OF BOARD MEMBERS	TOTAL COST SAVING
Board Members	$75	$9.38	2	$18.76	13	$243.88

IV. ASSUMPTIONS

1. The above figures are based on FY 2017 actuals.
2. This change will decrease the division meetings by two per year. Meetings are attended by 3 members (architects, professional land surveyors and professional landscape architects), 4 members (professional engineering) for a total of 13 board members. The board chairman and the public member do not attend the division meetings.
3. The number of hours is based on an 8-hour work day ($75 / 8 hours =$9.38/hour and 2 hours x $9.38 = $18.76). Each conference call is normally an hour in duration.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 2—Code of Professional Conduct

PROPOSED AMENDMENT

20 CSR 2030-2.010 Code of Professional Conduct. The board is amending sections (2) and (3) and renumbering/relettering the remaining subsections.

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) The Missouri Rules of Professional Conduct for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects Preamble reads as follows: Pursuant to section 327.041.2, RSMo, the board adopts the following rules, referred to as the rules of professional conduct. These rules of professional conduct are binding for every licensee. Each person licensed pursuant to Chapter 327, RSMo, is required to be familiar with Chapter 327, RSMo, and the rules of the board. The rules of professional conduct will be enforced under the powers vested in the board. Any act or practice found to be in violation of these rules of professional conduct *[will]* **may** be grounds for a complaint to be filed with the Administrative Hearing Commission.

(3) In practicing architecture, professional engineering, professional land surveying, or professional landscape architecture, a licensee shall—

(A) *[a]***A**ct with reasonable care and competence*[,]* and *[shall]* apply the technical knowledge and skill which are ordinarily applied by architects, professional engineers, professional land surveyors, or professional landscape architects of good standing, practicing in Missouri. In the performance of professional services, licensees *[shall be cognizant that their]* **hold their** primary responsibility *[is]* to the public welfare*[, and this shall]* **which should** not be compromised by any self-interest of the client or the licensee.

*[(4)]***(B)** *[Licensees shall u]***U**ndertake to perform architectural, professional engineering, professional land surveying, and professional landscape architectural services only when they are qualified by education, training, and experience in the specific technical areas involved.

*[(5)]***(C)** *[Licensees, i]***I**n the conduct of their practice, *[shall]* not knowingly violate any state or federal criminal law.

(D) *[Licensees shall c]***C**omply with state laws and regulations governing their practice. In the performance of architectural, professional engineering, professional land surveying, or professional landscape architectural services within a municipality or political subdivision that is governed by laws, codes, and ordinances relating to the protection of life, health, property, and welfare of the public, a licensee shall not knowingly violate these laws, codes, and ordinances.

*[(6)]***(E)** *[Licensees at all times shall r]***R**ecognize that their primary obligation is to protect the safety, health, property, or welfare of the public. If the professional judgment is overruled under circumstances where the safety, health, property, or welfare of the public are endangered, they *[shall]* **are to** notify their employer or client and other authority as may be appropriate.

*[(7)]***(F)** *[Licensees shall n]***N**ot assist non-licensees in the unlawful practice of architecture, professional engineering, professional land surveying, or professional landscape architecture.

(G) *[Licensees shall n]***N**ot assist in the application for licensure of a person known by the licensee to be unqualified in respect to education, training, experience, or other relevant factors.

*[(8)]***(H)** *[Licensees shall t]***T**ruthfully and accurately represent to others the extent of their education, training, experience**,** and professional qualifications*[. Licensees shall]* **and** not misrepresent or exaggerate the scope of their responsibility in connection with prior employment or assignments.

*[(9)]***(I)** *[Licensees shall n]***N**ot accept compensation, financial or otherwise, from more than one (1) party, for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties. The disclosure and agreement shall be in writing.

*[(10)]***(J)** *[Licensees shall m]***M**ake full disclosure, suitably documented, to their employers or clients of potential conflicts of interest, or other circumstances which could influence or appear to influence their judgment on significant issues or the unbiased quality of their services.

*[(11)]***(K)** *[Licensees shall n]***N**ot offer, give, solicit, or receive, either directly or indirectly, any commission, contributions**,** or valuable gifts, in order to secure employment, gain an unfair advantage over other licensees, or influence the judgment of others in awarding contracts for either public or private projects. This provision is not intended to restrict in any manner the rights of licensees to participate in the political process; to provide reasonable entertainment and hospitality; or to pay a commission, percentage**,** or brokerage fee to a bona fide employee or bona fide established commercial or marketing agency retained by the licensee.

*[(12)]***(L)** *[Licensees shall n]***N**ot solicit or accept financial or other valuable consideration, either directly or indirectly, from contractors, suppliers, agents, or other parties in return for endorsing, recommending, or specifying their services or products in connection with work for employers or clients.

*[(13)]***(M)** *[Licensees shall n]***N**ot attempt to, directly or indirectly, injure the professional reputation, prospects of practice or employment of other licensees in a malicious*[,]* or false manner, or both.

*[(14)]***(N)** *[Licensees shall n]***N**ot reveal confidential, proprietary**,** or privileged facts or data, or any other sensitive information obtained in a professional capacity without the prior consent of the client or employer except as authorized or required by law or rules of this board.

*[(15)]***(4)** Licensees having knowledge of any alleged violation of this Code shall cooperate with the proper authorities in furnishing information or assistance as may be required.

*AUTHORITY: section 327.041, RSMo [Supp. 2014] **2016**. This rule originally filed as 4 CSR 30-2.010. Original rule filed Dec. 10, 1975, effective Jan. 10, 1976. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 2—Code of Professional Conduct

PROPOSED AMENDMENT

20 CSR 2030-2.040 Evaluation Criteria for Building Design. The board is amending the purpose statement.

PURPOSE: The purpose statement of this rule is being amended to reflect the correct edition of the International Building Code to be consistent with the date appearing in the text of the rule.

*PURPOSE: This rule provides the recipient and producer of professional architectural, engineering, and/or landscape architectural services assurances that all services are evaluated in accordance with the [2012] **2015** edition of the International Building Code.*

*AUTHORITY: section 327.041, RSMo [Supp. 2014] **2016**. Original rule filed June 14, 2007, effective Dec. 30, 2007. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 3—Seals

PROPOSED AMENDMENT

20 CSR 2030-3.060 Licensee's Seal. The board is amending the purpose statement and sections (1), (3), (4), (5), (7), (9), and (10), adding new section (6), and renumbering as needed.

PURPOSE: This rule is being amended to add the word "Professional" in front of landscape architect(s) and to add a new subsection (1)(D). It also provides more clarity with regard to technical submissions and in the use of digital and electronic signatures.

*PURPOSE: This rule describes the format for personal seal of an architect, a professional engineer, a professional land surveyor, and a **professional** landscape architect.*

(1) Each person licensed as an architect, professional engineer, professional land surveyor**,** or **professional** landscape architect (not including interns or individuals "in-training") shall, at his/her own expense, secure a seal one and three-quarters inches (1 3/4") in diameter of the following design: the seal shall consist of two concentric circles between which *[shall]* appear in roman capital letters, the words, "State of Missouri" on the upper part of the seal and either "Architect," or "Professional Engineer," or "Professional Land Surveyor" or "**Professional** Landscape Architect," as the case may be, on the lower part, and within the inner circle *[shall appear]* the name of the licensee, together with his/her license number preceded by the roman capital letter(s) A for Architect, PE for Professional Engineer, PLS for Professional Land Surveyor or **P**LA for **Professional** Landscape Architect.

(A) The seal of an architect licensed prior to January 1, 2002 may display "Registered Architect" on the lower part and within the inner circle *[shall appear]* the name of the licensee, together with his/her license number preceded by the roman capital letter A.

(B) The seal of a professional engineer licensed prior to January 1, 2002 may display "Registered Professional Engineer" on the lower part and within the inner circle *[shall appear]* the name of the licensee, together with his/her license number preceded by the roman capital letter E.

(C) The seal of a professional land surveyor licensed prior to January 1, 2002 may display "Registered Land Surveyor" on the lower part and within the inner circle *[shall appear]* the name of the licensee, together with his/her license number preceded by the roman capital letters LS.

(D) The seal of a professional landscape architect licensed prior to January 1, 2015 may display "Landscape Architect" on the lower part and within the inner circle the name of the licensee, together with his/her license number preceded by the roman capital letters LA.

(3) In addition to the personal seal, the licensee shall also affix his/her signature and place the date when the document was originally sealed, at the minimum, to the original of each sheet in a set of *[plans, drawings, specifications, estimates, reports and other documents which were]* **all final technical submissions that include, but are not limited to, drawings, specifications, exhibits, plats, reports, surveys, and certifications of construction** prepared by the licensee or under his/her immediate personal supervision. The term "signature," as used herein *[shall mean a handwritten identification containing the name of the person who applied it; or for electronic or digital documents shall mean an electronic authentication process attached to or logically associated with the document. The digital signature must be unique to, and under the sole control of the person using it; it must also be capable of verification and be linked to a document in such manner that the digital signature is invalidated if any data on the document is altered.]* **means the following:**

(A) *[Documents that are without an electronic signature or authentication process that are transmitted electronically shall have the seal removed and the following inserted in its place: "This media should not be considered a certified document."]* **For a hand drawing (e.g., paper, vellum, mylar), printed document or computer generated hard copy media, a handwritten "wet signature" identification containing the name of the person who applied it.**

(B) For electronic or digital documents transmitted to others in their native file format (e.g., AutoCAD, Revit, Word, or Excel), a digital signature with an electronic authentication process attached to or logically associated with the document. The digital signature must be unique to, and under the sole control of the person using it; it must also be capable of verification and be linked to a document in such manner that the digital signature is invalidated if any data on the document is altered.

(C) For electronic or digital documents transmitted to others in a "pdf" or similar format that has modified the native file so that

it is not easily altered, a scanned signature is acceptable if it is an accurate depiction of the licensee's actual signature.

*[(B)]***(4)** When revisions are made*[,]* the licensee who made the revisions**,** or under whose immediate personal supervision the revisions were made**,** shall sign, seal**,** and date each sheet and provide an explanation of the revisions. **Revisions to technical submissions which are not made or approved by the licensee are prohibited.**

*[(C)]***(5)** In lieu of signing, sealing**,** and dating each page, the licensee(s) may sign, seal**,** and date the title page, an index page, or a seals page on bound multiple page documents not considered to be drawings, providing that the signed page clearly identifies all of the other pages comprising the bound volume. Provided further that any of the other pages which were prepared by, or under the immediate personal supervision of another licensee be signed, sealed**,** and dated as provided for, by the other licensee. Any additions, deletions**,** or other revisions *[shall not be made]* **are prohibited** unless signed, sealed**,** and dated by the licensee who made the revisions or under whose immediate personal supervision the revisions were made.

(6) An original document which is sealed, signed, and dated (by hand or electronically) by the licensee may be reproduced by photocopy, traditional blue printing, faxing, scanning in "pdf," publishing or printing to "pdf," or similar format.

*[(4)]***(7)** *[Plans, specifications, estimates, plats, reports, surveys, and other documents or instruments]* **Technical submissions** shall be signed, sealed**,** and dated unless clearly designated preliminary or incomplete**, not to be used for construction, or is a record drawing of as-built construction information provided by others**. If the *[plan is not completed]* **document is preliminary or incomplete, not to be used for construction, or is a record drawing of as-built construction information provided by others**, the phrase, "**The information on this document is** *[P]***p**reliminary **or incomplete**, not for construction, recording purposes**,** or implementation" or similar *[language or phrase]* **disclaimer and notice to others** shall be placed in an obvious location so that it is readily found, easily read**,** and not obscured by other markings. *[It shall be a disclaimer and notice to others that the plans are not complete.]*

*[(5)]***(8)** In the instance of one (1) licensee performing design for other licensees to incorporate into his/her documents, each licensee shall seal, date**,** and sign those documents, using the appropriate disclaimer for clarification of each licensee's responsibility.

*[(6)]***(9)** The signing and sealing of *[plans, specifications, estimates, reports and other documents or instruments]* **technical submissions** not prepared by the licensee or under his/her immediate personal supervision is prohibited.

*[(7)]***(10)** This rule *[supercedes]* **supersedes** any conflicting rules.

AUTHORITY: sections 327.041 and 327.411, RSMo [Supp. 2006] 2016. This rule originally filed as 4 CSR 30-3.060. Original rule filed July 24, 2003, effective Feb. 29, 2004. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed March 30, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 4—Applications

PROPOSED AMENDMENT

20 CSR 2030-4.050 Criteria to File Application Under *[327.391 and]* **327.392, RSMo**. The board is changing the rule title, amending the purpose statement, deleting section (1), and amending and renumbering the remaining sections.

PURPOSE: This rule is being amended to delete reference to section 327.391, RSMo.

PURPOSE: This rule requires that applications for licensure under section[s 327.391 and] 327.392, RSMo, be subject to criteria established by the board [at the time of receipt of the application].

[(1) All applications for licensure as a professional land surveyor under section 327.391, RSMo shall be subject to such criteria as established by the board at the time the application is received.

(A) Applicant shall submit a complete application on forms prescribed by the board showing a minimum of twenty (20) years of satisfactory land surveying experience.

(B) Applicant will be required to pass the National Council of Examiners for Engineering and Surveying (NCEES) Fundamentals of Surveying examination, the NCEES Professional Surveying examination and the Missouri State Specific examination.]

*[(2)]***(1)** All applications for licensure as a professional engineer under section 327.392.1, RSMo *[shall be]* **are** subject to such criteria as established by the board *[at the time the application is received]*. **An applicant may apply for licensure under section 327.392.1, RSMo, who—**

(A) *[Applicant shall s]***S**ubmit**s** a complete application on forms prescribed by the board showing a minimum of twenty (20) years of satisfactory engineering experience*[.]***;**

(B) *[Applicant shall h]***H**old**s** a degree at the bachelor's level or higher in engineering*[.]***; and**

(C) *[Applicant will be required to p]***P**ass**es** the **National Council of Examiners for Engineering and Surveying (**NCEES**)** Principles and Practice of Engineering examination.

*[(3)]***(2)** All applications for licensure as a professional engineer under section 327.392.2, RSMo *[shall be]* **are** subject to such criteria as established by the board *[at the time the application is received]*. **An applicant may apply for licensure under section 327.392.2, RSMo, who—**

(A) *[Applicant shall s]***S**ubmit**s** a complete application on forms prescribed by the board showing a minimum of four (4) years of satisfactory engineering experience*[.]***;**

(B) *[Applicant shall h]***H**old**s** a degree from an Engineering

Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET, Inc.) or its equivalent and a doctorate in engineering from an institution that offers Engineering Accreditation Commission programs*[.]***; and**

(C) *[Applicant will be required to p]***Pass**es the NCEES Principles and Practice of Engineering examination.

*AUTHORITY: sections 327.041[, 327.391,] and 327.392, RSMo [Supp. 2007] **2016**. This rule originally filed as 4 CSR 30-4.050. Original rule filed Nov. 10, 1971, effective Dec. 10, 1971. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 4—Applications

PROPOSED AMENDMENT

20 CSR 2030-4.055 Criteria to File Application under section 324.008.1., RSMo, for a Temporary Courtesy License. The board is amending the purpose statement and section (1).

PURPOSE: This rule is being amended to add the word "professional" in front of engineering, land surveying, and landscape architecture and reduces unnecessary regulatory restrictions.

*PURPOSE: This rule states the requirements and procedures for a nonresident spouse of an active duty member of the military who is transferred to this state in the course of the member's military duty to obtain a temporary courtesy license to practice architecture, **professional** engineering, **professional** land surveying, or **professional** landscape architecture for one hundred eighty (180) days which may be extended, at the discretion of the board and upon receipt of an additional fee, for another one hundred eighty (180) days.*

(1) The board *[shall]* **may** grant a temporary courtesy license to practice architecture, **professional** engineering, **professional** land surveying, and/or **professional** landscape architecture without examination to a "nonresident military spouse" as defined in section 324.008.1., RSMo, who provides proof that such applicant's qualifications meet or are at least equivalent to the requirements for initial licensure in this state and who provides the board the following:

(F) If the board is unable to determine if the licensing requirements of the state, district, or territory in which the applicant was initially licensed are equivalent to Missouri's licensing requirements, **it may request** the applicant *[shall]* **to** submit documentation regarding the licensing requirements equivalency **as a condition precedent to licensure**;

(G) Any person applying for temporary licensure as a professional land surveyor *[shall be required to take]* **may qualify for temporary licensure after taking** and pass**ing** the written Land Surveyor Missouri Specific Examination covering Missouri surveying practice and Missouri statutes and rules relating to the practice of **professional** land surveying; and

*AUTHORITY: section 324.008.1., RSMo [Supp. 2012] **2016**. Original rule filed July 26, 2012, effective Jan. 30, 2013. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed March 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 4—Applications

PROPOSED AMENDMENT

20 CSR 2030-4.060 Evaluation—Comity Applications—Architects. The board is amending sections (1) and (2).

PURPOSE: This rule is being amended for purpose of clarification pursuant to licensure under section 327.381, RSMo.

(1) *[Individuals]* **Any person who was licensed in another state, territory or possession of the United States or in another country may** apply*[ing]* for licensure as an architect under section 327.381, RSMo *[who were originally licensed in another state, territory or possession of the United States or in another country shall be required to]* **after** first obtain**ing** a National Council of Architectural Registration Board (NCARB) certificate and file.

(2) The board shall only consider comity licensure applications when accompanied by an NCARB **certificate and** file.

*AUTHORITY: sections 327.041, 327.131, and 327.381, RSMo [Supp. 2003] **2016**. This rule originally filed as 4 CSR 30-4.060. Original rule filed Dec. 8, 1981, effective March 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 4—Applications

PROPOSED AMENDMENT

20 CSR 2030-4.070 Evaluation—Comity Applications—*Professional* Engineers. The board is amending the title and purpose statement, sections (1), (4), and (5), deleting sections (2) and (3), and renumbering as necessary.

PURPOSE: This rule is being amended to delete reference to initial time of licensure and to also delete reference to an eight- (8-) hour exam due to the conversion to Computer Based Testing which has shortened the exam testing time.

PURPOSE: This rule ensures that applicants for licensure as professional engineers meet the minimum requirements for [initial] licensure in Missouri.

(1) Any person applying for licensure as a professional engineer under section 327.381, RSMo who was *[originally]* licensed, *[or subsequently licensed, on or after April 13, 1984,]* in another state, territory**,** or possession of the United States or in another country without being required to pass the **National Council of Examiners for Engineering and Surveying (**NCEES**)** examinations, that is, the Fundamentals of Engineering Examination and the Principles and Practice of Engineering Examination, will be required to pass the NCEES examination(s) which he/she was not required to pass to attain his/her *[original or]* subsequent licensure(s) except that if such person has been actively engaged in the practice of engineering for a period of *[fifteen (15) consecutive]* **twenty (20)** years *[immediately]* prior to the filing of his/her application for comity, such person *[shall not be required to]* **need not** take the NCEES Fundamentals of Engineering Examination.

[(2) Any person applying for licensure as a professional engineer under section 327.381, RSMo who was originally licensed or subsequently licensed anytime prior to April 13, 1984, in another state, territory or possession of the United States or in another country without being required to pass at least an eight (8)-hour examination covering the mathematics and basic sciences (fundamentals of engineering), shall be required to take and pass the NCEES Fundamentals of Engineering Examination except that if such person has been actively engaged in the practice of engineering for a period of fifteen (15) consecutive years immediately prior to the filing of his/her application for comity, such person shall not be required to take the NCEES Fundamentals of Engineering Examination, providing he/she has already taken and passed at least an eight (8)-hour a fundamentals of engineering examination.

(3) Any person applying for licensure as a professional engineer under section 327.381, RSMo who was originally licensed or subsequently licensed anytime prior to April 13, 1984, in another state, territory or possession of the United States or in another country without being required to pass at least an eight (8)-hour examination covering the theory and practice of engineering (principles and practice of engineering), shall be required to take and pass the NCEES Principles and Practice of Engineering Examination.]

*[(4)]***(2)** When a comity applicant is required to take **one (1) or** both **of** the NCEES *[Fundamentals of Engineering Examination and the NCEES Principles and Practice of Engineering]* Examinations*, [he/she may take the examinations on consecutive days, provided however,]* the applicant will not be licensed by comity until he/she passes *[both examinations in accordance with the provisions of section 327.241.3, RSMo]* **all of the examinations required of the applicant**.

*[(5)]***(3)** *[When an applicant for licensure by comity is required to take the NCEES Fundamentals of Engineering Examination and/or the NCEES Principles and Practice of Engineering Examination, the applicant shall be required to pay an examination fee for either or both the examinations.]* If the applicant fails to pass the required examination(s), he/she will be permitted unlimited reexaminations *[so long as notice of desire to retake is filed with the board on or before the filing deadline and so long as the applicant pays the required reexamination fee as is set forth in 20 CSR 2030-6.020]* **in accordance with NCEES policy**.

*AUTHORITY: sections 327.041 and 327.381, RSMo [Supp. 2006] **2016**. This rule originally filed as 4 CSR 30-4.070. Original rule filed Dec. 8, 1981, effective March 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 4—Applications

PROPOSED AMENDMENT

20 CSR 2030-4.080 Evaluation—Comity Applications—*Professional* Land Surveyors. The board is amending all sections, deleting sections

(2) and (3) then renumbering as necessary.

PURPOSE: This rule is being amended to delete reference to initial time of licensure and to also delete reference to an eight- (8-) hour exam due to the conversion to Computer Based Testing which has shortened the exam testing time.

(1) Any person applying for licensure as a professional land surveyor under section 327.381, RSMo, who was licensed *[on or after October 1992]* in another state, territory**,** or possession of the United States or in another country without being required to pass the National Council of Examiners in Engineering and Surveying (NCEES) examinations, that is, the Fundamentals of Land Surveying Examination and the Principles and Practice of Land Surveying Examination; will be required to pass the NCEES *[Fundamentals of Land Surveying Examination,]* **examination(s) which he/she was not required to pass to attain his/her subsequent licensure(s)** except that if such person has been actively engaged in the practice of land surveying for a period of at least *[fifteen (15)]* **twenty (20)** years prior to the filing of his/her application for comity *[and has taken at least an eight (8) hour examination in the Fundamentals of Land Surveying, the requirement for taking]***, such person need not take** the NCEES Fundamentals of Land Surveying Examination *[will be waived]*.

[(2) Any person applying for licensure as a professional land surveyor under section 327.381, RSMo, who was licensed prior to October 1992 in another state, territory or possession of the United States or in another country without being required to pass the NCEES Fundamentals of Land Surveying Examination, will be required to pass the NCEES Fundamentals of Land Surveying Examination; except that if such person has been actively engaged in the practice of land surveying for a period of at least fifteen (15) years prior to the filing of his/her application for comity and has taken at least an eight (8) hour examination in the Fundamentals of Land Surveying, which is equivalent to that of the NCEES, the requirement for taking the NCEES Fundamentals of Land Surveying Examination will be waived.

(3) Any person applying for licensure as a professional land surveyor under section 327.381, RSMo, who was licensed prior to October 1992 in another state, territory or possession of the United States or in another country without being required to pass the NCEES Principles and Practice of Land Surveying Examination, will be required to pass the NCEES Principles and Practice of Land Surveying Examination; except that if such person has been actively engaged in the practice of land surveying for a period of at least fifteen (15) years prior to the filing of his/her application for comity and has taken an examination in the Principles and Practice of Land Surveying, which is equivalent to that of the NCEES, the requirement for taking the NCEES Principles and Practice of Land Surveying Examination will be waived.]

*[(4)]***(2)** Any person applying for licensure as a professional land surveyor under section 327.381, RSMo, shall *[be required to]* take and pass the *[written]* Missouri Specific Examination covering Missouri surveying practice and Missouri statutes and rules relating to the practice of land surveying.

*[(5)]***(3)** When a comity applicant is required to take one **(1)** or both of the NCEES examinations as well as the *[written]* Missouri Specific Examination, the applicant *[may take the examinations on consecutive testing dates, provided however, the applicant]* will not be licensed by comity until he or she passes all of the examinations required of the applicant.

*AUTHORITY: sections 327.041 and 327.381, RSMo [Supp. 2001] **2016**. This rule originally filed as 4 CSR 30-4.080. Original rule filed Dec. 8, 1981, effective March 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 4—Applications

PROPOSED AMENDMENT

20 CSR 2030-4.090 Evaluation—Comity Applications—*Professional* Landscape Architects. The board is amending the title and purpose statement and section (1) and deleting section (2).

PURPOSE: This rule is being amended to add the word "Professional" in front of landscape architect and to delete section (2) since that provision is already clearly cited in section 327.615, RSMo.

PURPOSE: This rule ensures that an applicant for licensure by comity meets the minimum requirement for [initial] licensure in Missouri.

(1) *[Individuals who are certified or]* **Any person applying for licensure as a professional landscape architect under section 327.381, RSMo, who was** licensed in another state, *[or]* territory**, or possession** of the United States **or in another country** and *[have]* **has the** qualifications which are at least equivalent to the requirements for licensure as a **professional** landscape architect in this state may apply for licensure by comity.

[(2) Applications shall be typewritten on forms provided by the board and shall be accompanied by the required fee.]

*AUTHORITY: sections 327.041 and [327.623] **327.381**, RSMo [Supp. 2005] **2016**. This rule originally filed as 4 CSR 30-4.090. Original rule filed Oct. 30, 2002, effective April 30, 2003. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 30, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 11—Renewals

PROPOSED AMENDMENT

20 CSR 2030-11.010 Renewal Period. The board is amending the purpose statement, amending sections (1)–(5), and adding new section (6).

PURPOSE: This rule is being amended to add the word "professional" in front of landscape architects and to clarify the license expiration date when a license is not timely renewed.

*PURPOSE: This rule establishes the licensing period for the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and **Professional** Landscape Architects and establishes the information required to keep the records of the board current.*

(1) The license issued to every architect, professional engineer, professional land surveyor**,** and **professional** landscape architect in Missouri shall be renewed biennially. Licenses originally issued in an odd numbered year *[shall be renewed]* **renew** by December 31 of each odd numbered year. Licenses originally issued in an even numbered year *[shall be renewed]* **renew** by December 31 of each even numbered year.

(2) The certificates of authority issued to corporations authorized to offer architectural, engineering, land surveying**,** and landscape architectural services in Missouri shall be renewed biennially. Certificates of authority originally issued in an odd numbered year *[shall be renewed]* **renew** by December 31 of each odd numbered year. Certificates of authority originally issued in an even numbered year *[shall be renewed]* **renew** by December 31 of each even numbered year.

(3) Each renewal application from every architect, professional engineer, professional land surveyor**,** and **professional** landscape architect in Missouri shall be accompanied by the following information, in addition to any other information the board may require:

(A) Name; and

(B) Address.

(4) Each person holding a license and each corporation holding a certificate of authority to practice architecture, professional engineering, professional land surveying**,** and **professional** landscape architecture in Missouri shall file, in writing, their proper and current mailing address of record with the board at its office in Jefferson City and immediately notify the board, in writing, at its office of any changes of mailing address, giving both the old and the new addresses.

(5) Failure to receive an application for renewal of a license or certificate of authority shall not relieve the licensee or certificate holder from their duty to timely renew, nor *[shall it]* relieve them from the obligation to pay any additional fee(s) necessitated by any late renewal.

(6) The licensee may renew his/her license or certificate of authority within three (3) months from the license renewal date without penalty. A license or certificate not renewed within three (3) months of the license renewal date automatically expires on the renewal date and becomes void. The holder of the expired license or certificate loses any rights or privileges under such license, but may within the discretion of the board, and upon payment of the required fee, be relicensed or reauthorized under the licensee's original license number.

*AUTHORITY: sections 327.011, 327.041**,** [and 327.621, RSMo Supp. 2005 and] 327.171, 327.261**,** [and] 327.351, **and 327.621,** RSMo [2000] **2016**. This rule originally filed as 4 CSR 30-11.010. Emergency rule filed Sept. 14, 1981, effective Sept. 24, 1981, expired Jan. 22, 1982. Original rule filed Sept. 14, 1981, effective Dec. 11, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

PUBLIC COST: This proposed amendment will increase revenue for the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects by one thousand eight hundred fifty dollars ($1,850) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately one thousand eight hundred fifty dollars ($1,850) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2030 - Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 11 - Renewals
Proposed Amendment to 20 CSR 2030-11.010 Renewal Period

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Revenue	
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		**$1,850**
	Estimated Annual Increase in Revenue for the Life of the Rule	**$1,850**

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. It is anticipated that the total annual increase will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2030 - Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 11 - Renewals
Proposed Amendment to 20 CSR 2030-11.010 Renewal Period

II. SUMMARY OF FISCAL IMPACT

Annual

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the amendment by affected entities:
37	Relicensure Fee for Individuals and Corporations (Additional Fee Expense @ $50)	$1,850
	Estimated Annual Costs for the Life of the Rule	**$1,850**

III. WORKSHEET

See table above.

IV. ASSUMPTIONS

1. The numbers reported above are based on calendar year 2013 actuals. The law change in 2014 deleted licensure reinstatement; currently licensees incur the above additional expenses for relicensure. This fiscal note is to meet the requirements of section 536.205, RSMo, which requires the publication of a fiscal note for proposed rulemaking.
2. It is anticipated that the total fiscal costs will recur for the life of the rule, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

Note: The board is statutorily obligated to enforce and administer the provisions of Chapter 327, RSMo. Pursuant to section 327.431, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 327, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 327, RSMo.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 11—Renewals

PROPOSED AMENDMENT

20 CSR 2030-11.015 Continuing Professional Competency for Professional Engineers. The board is amending sections (1), (2), (3), (6), (9), and (10).

PURPOSE: This rule is being amended to provide more clarification on acceptable hours of professional development for the renewal of a professional engineer's license.

(1) Purpose.

(A) *[Effective December 31, 2004, as a condition for r]***R**enewal of an engineering license issued pursuant to section 327.261, RSMo, **may only be granted to** a licensee *[shall have]* **who has** successfully completed thirty (30) professional development hours, as defined by this regulation, within the two (2) immediately-preceding years (renewal period). Any licensee who completes more than thirty (30) professional development hours within the preceding two (2) calendar years may apply the excess, not to exceed fifteen (15) hours, to the requirement for the next two- (2-) year period.

(E) A professional engineer who holds licensure in Missouri for less than twelve (12) months from the date of his/her initial licensure *[shall be required to complete the number of continuing education hours calculated by multiplying 1.25 and the number of full months they will be licensed before their first]* **need not report professional development hours at the first license** renewal.

(2) Definitions.

(A) Board. The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and **Professional** Landscape Architects.

(E) Sponsor. An individual, organization, association, institution, or other entity that provides an educational activity for the purpose of fulfilling the professional development requirements of the board. **The sponsor is responsible for providing the attendees with verification records.**

(3) Activities. All such activities must be relevant to the practice of engineering and may include technical, ethical, or managerial content. Professional development activities *[that satisfy]* **satisfying** these requirements *[shall]* include, but *[shall not be]* **are not** limited to:

(C) Active participation and successful completion of seminars, tutorials, workshops, short courses, correspondence courses, televised or videotaped courses**,** or in-house **corporate sponsored educational** courses**. A correspondence course must require the participant to show evidence of achievement with a final graded test**;

(D) Attending program presentations at related technical or professional meetings**. PDHs are awarded only for those portions of the meeting that meet the requirements of this rule. Licensees serving as an officer or actively participating in a committee of the technical professional society or organization may earn a maximum of two (2) PDHs annually per organization. PDH credits are not earned until the end of each year of service is completed**;

(E) Contact hours spent in professional service to the public that draws upon the licensee's professional expertise on boards or commissions, such as: serving on planning commissions, park boards, city council, county commissions, or state registration boards may earn a maximum of two (2) PDHs annually per organization. PDH credits are not earned until the end of each year of service is completed;

*[(E)]***(F)** Teaching or instructing (see subsections (3)(A)–(D))**. College or university faculty may not claim credit for teaching regular curriculum courses**; and

*[(F)]***(G)** Authoring papers or articles that appear in nationally circulated technical journals or trade magazines.

(6) Credits. PDHs of credit for qualifying courses successfully completed that offer semester hour, quarter hour, or CEU credit is as specified in this rule. All other activities permit the earning of one (1) PDH of credit for each contact hour with the following exceptions:

(C) Five (5) PDHs are earned for a paper or article that is published in a nationally circulated technical journal or *[article]* **trade magazine**. Credit cannot be claimed until that article or paper is actually published**. PDHs earned for authoring a paper or article are limited to ten (10) PDHs per two- (2-) year renewal period**;

(D) A one- (1-) time award of ten (10) PDHs will be granted for obtaining a work-related patent **within the renewal period**; and

(9) Records. The responsibility of maintaining records that can be used to support credits claimed is the responsibility of the licensee. Records required include**,** but are not limited to: 1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; and 2) attendance verification records in the form of completion certificates **which identify the participant by name**, signed attendance receipts, *[paid receipts,]* a copy of a listing of attendees signed by a person in responsible charge, or other documents supporting evidence of attendance. These records must be maintained for a period of four (4) years and copies must be furnished to the board for audit verification purposes if requested. **If these records get lost or destroyed the licensee must inform the board, in writing, within thirty (30) days.** At its discretion, the board may randomly audit a portion of licensees each renewal period or a specific licensee if a complaint has been filed against the licensee.

(10) Disallowance. **If audited,** *[T]***t**he board will review all claimed PDH credits for compliance with the regulation. If in the review the board finds that the PDH credit is not acceptable, the board shall inform the licensee of the criteria that has not been adhered to. The licensee *[shall have]* **may, within** three (3) months from the license renewal date**,** *[in which to]* substantiate the original claim or *[to]* earn other credits to meet the minimum requirements.

*AUTHORITY: sections 327.031, [and] 327.041, [RSMo Supp. 2012,] and [section] 327.261, RSMo [2000] **2016**. This rule originally filed as 4 CSR 30-11.015. Original rule filed Nov. 1, 2001, effective June 30, 2002. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 11—Renewals

PROPOSED AMENDMENT

20 CSR 2030-11.020 Professional Land Surveyor—Renewal and Reactivation of Licensure. The board is amending sections (2) and (3).

PURPOSE: This rule is being amended to delete reference to section 327.351.6(1), RSMo, in subsection (3)(A) and reference to subparagraph 2 of section 327.351.6, RSMo, in subsection (3)(B). It also adds reference to retired status to be consistent with other rules.

(2) In order to renew a license, the licensee must:

(B) Pay the required fee; provided however, no fee *[shall]* **need** be paid by a licensee who is at least seventy-five (75) years of age at the time the renewal is due; and

(3) Licensees**,** who *[request to be classified as inactive]* **so attest on their renewal that they are retired from active practice or are not engaged in the active practice of land surveying, may place their license in an inactive status** pursuant to section 327.351.5, RSMo*[, may maintain their inactive status by paying the renewal fee as provided in 20 CSR 2030-6.015. Inactive licensees need not complete the PDU requirement. However, an inactive licensee shall not have his/her license reactivated until he/she pays the required reactivation fee, and in addition, either:]*. **Those doing so cannot practice but can still retain the title of professional land surveyor and use the letters "PLS" behind their name. Such professional land surveyor may, however, reenter practice only after paying the required fee and satisfying the board of their proficiency. Proficiency may be established by any one (1) of the following:**

(A) Completes the PDU requirements as described in *[section 327.351.6(1), RSMo]* **board rule 20 CSR 2030-8.020**; or

*AUTHORITY: section 327.041, RSMo [Supp. 2006] **2016**. This rule originally filed as 4 CSR 30-11.020. Original rule filed June 15, 2001, effective Jan. 30, 2002. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 11—Renewals

PROPOSED AMENDMENT

20 CSR 2030-11.025 Continuing Education for Architects. The board is amending sections (1)–(6), (8), and (9).

PURPOSE: This rule is being amended to provide more clarification on acceptable hours of continuing education units for the renewal of an architect's license.

(1) Purpose.

(A) *[Effective December 31, 2006, as a condition for r]***R**enewal of an architectural license issued pursuant to section 327.171, RSMo **may only be granted to** a licensee *[shall have]* **who has** successfully completed twenty-four (24) continuing education units (CEUs), as defined by this regulation and the American Institute of Architects (AIA), within the two (2) years immediately preceding the renewal date or be exempt from these continuing education requirements as provided in this rule. At least sixteen (16) CEUs shall be related to health, safety, and welfare (HSW) acquired in structured educational activities. All twenty-four (24) hours may be acquired in such HSW subjects and activities. Failure to comply with these requirements will result in nonrenewal of the architect's license or other disciplinary action or both unless noted below. Any licensee who completes more than twenty-four (24) CEUs within the preceding two (2) calendar years may apply the excess, not to exceed twelve (12) units, to the requirement for the next two- (2-)*[-]* year period.

(2) Definitions.

(B) Board. The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and **Professional** Landscape Architects.

(D) Continuing education unit (CEU). One (1) nominal contact hour of instruction or presentation. One (1) CEU *[shall]* represent**s** a minimum of fifty (50) minutes of actual course time. No credit will be allowed for introductory remarks, meals, breaks**,** or administrative matters related to courses of study.

(E) Sponsor. An individual, organization, association, institution**,** or other entity that provides an educational activity for the purpose of fulfilling the continuing education requirements of the board. The sponsor is responsible for providing the attendees with verification records *[such as certificates of attendance, signed attendance receipts, paid receipts, a copy of a listing of all attendees signed by a person in responsible charge of the activity, or other documentation verifying attendance]*.

(3) Initial Registration.

(A) An architect who holds licensure in Missouri for less than twelve (12) months from the date of his/her initial licensure, *[shall not be required to]* **need not** report continuing education hours at the first license renewal. *[An architect who holds licensure in Missouri for more than twelve (12) months, but less than twenty-four (24) months from the date of initial licensure, shall be required to report twelve (12) CEUs, which includes eight (8) CEUs in HSW earned in the preceding twelve (12) months at the first license renewal.]*

(4) Activities.

(A) The following suggested list may be used by all licensed architects in determining the types of activities that may fulfill continuing education requirements:

1. Contact hours in attendance at short courses or seminars, dealing with architectural or engineering subjects, as appropriate, to each discipline and sponsored by colleges or universities;

2. Contact hours in attendance at technical presentations on subjects which are held in conjunction with conventions or at seminars related to materials use and function. Such presentations as those sponsored by the National Council of Architectural Registration Boards, American Institute of Architects (AIA), Construction Specifications Institute, Construction Products Manufacturers Council**,** or similar

organizations devoted to architectural or engineering education may qualify**. CEUs are awarded only for those portions of the meeting that meet the requirements of this rule. Licensees serving as an officer or actively participating in a committee of the technical professional society or organization may earn a maximum of two (2) CEUs annually per organization. CEU credits are not earned until the end of each year of service is completed**;

3. Contact hours in attendance at short courses**,** *[or]* seminars, **tutorials, workshops, correspondence courses, televised or videotaped courses, or in-house corporate sponsored educational courses** relating to business practice or new technology and offered by colleges, universities, professional organizations, or system suppliers**. A correspondence course must require the participant to show evidence of achievement with a final graded test**;

4. Contact hours spent in self-study courses sponsored by the National Council of Architectural Registration Boards, AIA, or similar organizations**. Credit will be given for self-study courses only if an examination has been completed by the licensee and graded by the sponsor***;*

5. Three (3) units preparing for each class hour spent teaching architectural courses or seminars. Credit is allowed for first occurrence of teaching course or seminar per two- (2-)*[-]* year renewal period. College or university faculty may not claim credit for teaching regular curriculum courses;

6. Contact hours spent in architectural research, which is published or formally presented to the profession or public**. Five (5) CEUs are earned for a paper or article that is published in a nationally circulated technical journal or trade magazine. Credit cannot be claimed until that article or paper is actually published. CEUs earned for authoring a paper or article are limited to ten (10) CEUs per two- (2-) year renewal period**;

7. College or university credit courses dealing with architectural subjects or business practice. Each semester hour *[shall]* equals fifteen (15) CEUs;

8. Contact hours spent in professional service to the public that draws upon the licensee's professional expertise on boards or commissions, such as: serving on planning commissions, building code advisory boards, urban renewal boards, *[or]* code study committees**, or as a mentor or sponsor for the Architectural Experience Program (AXP), may earn a maximum of two (2) CEUs annually per organization. CEU credits are not earned until the end of each year of service is completed**;

9. Contact hours spent in education tours of architecturally significant buildings, where the tour is sponsored by a college, university, or professional organization**, may earn a maximum of two (2) CEUs annually**; or

10. *[A maximum of two (2) CEUs annually may be used for serving as a mentor or sponsor for the Intern Development Program (IDP)]* **A one- (1-) time award of ten (10) CEUs will be granted for obtaining a work related patent within the renewal period**.

(5) Exemptions.

(A) A licensed architect *[shall be deemed to have complied]* **may comply** with the foregoing continuing education requirements if the architect attests in the required renewal that for not less than twenty-one (21) months of the preceding two- (2-)*[-]* year period of licensure, the architect is a government employee working as an architect and assigned to duty outside the United States.

(6) Reactivation—Retired or Inactive.

(A) Architects, who so attest on their renewal that they are retired from active practice or are not engaged in the active practice of architecture, may place their license in an inactive status **pursuant to section 327.172.1, RSMo**. Those doing so cannot practice but can still retain the title of architect. Such architect may, however, reenter practice only after paying the required fee and satisfying the board of their proficiency. Proficiency may be established by any one (1) of the following:

1. Submitting verifiable evidence of compliance with the aggregate continuing education requirements for the reporting periods attested as retired from active practice or not engaged in active practice; or

2. Retake the architectural examination; or

3. Fulfill alternative reentry requirements determined by the board, which serve to assure the board of the current competency of the architect to engage in the practice of architecture.

(8) Forms.

(A) All renewal applications will require the submission of *[either]* a continuing education form specified and supplied by the board *[or the AIA/CES reporting form prescribed by the AIA]*. The licensee must certify and complete the attestation on the form, before submitting it with the renewal application and fee. Failure to fulfill the continuing education requirements, or file the required reporting form, properly and completely signed, shall result in nonrenewal of a licensee's license.

(9) Records.

(A) The responsibility of maintaining records, which can be used to support credits claimed, is the responsibility of the licensee. **Records required include but are not limited to: 1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and CEU credits earned; and 2) attendance verification records in the form of completion certificates which identify the participant by name, signed attendance receipts, a copy of a listing of attendees signed by a person in responsible charge, a copy of the AIA/CES reporting form prescribed by the AIA, or other documents supporting evidence of attendance.** Each architect shall complete and submit the required reporting form certifying that he/she has acquired the required continuing education hours. These records must be maintained for a period of four (4) years and copies must be furnished to the board for audit verification purposes, if requested. **If these records get lost or destroyed the licensee must inform the board, in writing, within thirty (30) days.** At its discretion, the board may randomly audit a portion of licensees each renewal period or a specific licensee if a complaint has been filed against the licensee. Any untrue or false statements or the use thereof with respect to course attendance or any other aspect of continuing education activity is fraud or misrepresentation and will subject the architect to license revocation or other disciplinary action. If *[in the review,]* **audited and** the board finds that the CEU is not acceptable, the board shall inform the licensee of the criteria that has not been adhered to. *[The licensee shall have]* **Within** three (3) months from the license renewal date *[in which to]***, the licensee may** substantiate the original claim or *[to]* earn other credits to meet the minimum requirements.

AUTHORITY: sections ***41.946,*** *327.041, [RSMo Supp. 2008 and sections 41.946] and 327.171, RSMo [2000]* ***2016****. This rule originally filed as 4 CSR 30-11.025. Original rule filed March 15, 2004, effective Sept. 30, 2004. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box

*184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 11—Renewals

PROPOSED AMENDMENT

20 CSR 2030-11.030 Professional Engineer Renewal and Reactivation of Licensure. The board is amending sections (2) and (3).

PURPOSE: This rule is being amended to include reference to retired status.

(2) In order to renew a license, the licensee must:

(B) Pay the required fee; provided however, *[no fee shall be paid by]* a licensee who is at least seventy-five (75) years of age at the time the renewal is due **need not pay any fee**; and

(3) Licensees**,** who *[request to be classified as inactive]* **so attest on their renewal that they are retired from active practice or are not engaged in the active practice of engineering, may place their license in an inactive status** pursuant to section 327.271.1, RSMo*[, may maintain their inactive status and receive a certificate indicating their inactive status by paying the renewal fee as provided in 20 CSR 2030-6.015. Holders of an inactive license need not complete the PDH requirement. However, a holder of an inactive license shall not have his/her license reactivated until he/she pays the required reactivation fee,]***. Those doing so cannot practice but can still retain the title of professional engineer and use the letters "PE" behind their name. Such professional engineer may, however, reenter practice only after he/she pays the required fee** and in addition, completes thirty (30) Professional Development Hours within the two (2) years immediately prior to the date of reactivation.

*AUTHORITY: sections 327.041, [RSMo Supp. 2006 and] 327.261**,** and 327.271.1, RSMo [2000] **2016**. This rule originally filed as 4 CSR 30-11.030. Original rule filed Dec. 9, 2002, effective June 30, 2003. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 11—Renewals

PROPOSED AMENDMENT

20 CSR 2030-11.035 Continuing Education for *Professional* Landscape Architects. The board is amending the title and purpose statement, sections (1)–(6), and (9).

PURPOSE: This rule is being amended to provide more clarification on acceptable hours of continuing education units for the renewal of a professional landscape architect's license.

*PURPOSE: Pursuant to Senate Bill 72 of the 94th General Assembly, this rule establishes continuing education requirements for **professional** landscape architects.*

(1) Purpose.

(A) *[As a condition for r]***R**enewal of a **professional** landscape architectural license issued pursuant to section 327.621, RSMo, **may only be granted to** a licensee *[shall have]* **who has** successfully completed twenty-four (24) continuing education units (CEUs), as defined by this regulation within the two (2) years immediately preceding the renewal date or be exempt from these continuing education requirements as provided in this rule.

1. At least sixteen (16) CEUs shall be related to health, safety, and welfare (HSW) acquired in structured educational activities. All twenty-four (24) units may be acquired in such HSW subjects and activities. Failure to comply with these requirements will result in nonrenewal of the **professional** landscape architect's license or other disciplinary action or both unless noted below.

2. Any licensee who completes more than twenty-four (24) CEUs within the preceding two (2) calendar years may apply the excess, not to exceed twelve (12) units, to the requirement for the next two- (2-) year period.

[3. This requirement goes into effect for landscape architects starting with their December 31, 2010, renewal period.

A. Every landscape architect originally licensed in an even year will need to start accumulating twenty-four (24) CEUs between January 1, 2009, and December 31, 2010, in order to renew their license prior to their next renewal deadline of December 31, 2010.

B. Every landscape architect originally licensed in an odd year will be required to have accumulated twenty-four (24) CEUs between January 1, 2010, and December 31, 2011.]

(B) Continuing education is a requirement for every **professional** landscape architect who is actively licensed by the board, regardless of age, area of practice, or whether the licensee lives in-state or out-of-state pursuant to section 327.621, RSMo.

(2) Definitions.

(A) **Professional** Landscape Architectural Division. The three- (3-) member division of the board that concerns itself with the profession of landscape architecture.

(B) Board. The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and **Professional** Landscape Architects.

(D) Continuing education unit (CEU). One (1) nominal contact hour of instruction or presentation. One (1) CEU *[shall]* represent**s** a minimum of fifty (50) minutes of actual course time. No credit will be allowed for introductory remarks, meals, breaks, or administrative matters related to courses of study.

(E) Sponsor. An individual, organization, association, institution, or other entity that provides an educational activity for the purpose of fulfilling the continuing education requirements of the board. *[A landscape architect is responsible for obtaining from the sponsor verification records such as certificates of attendance, signed attendance receipts, paid receipts, a copy of a listing of all attendees signed by a person in responsible charge of the activity, or other documentation verifying attendance.]* **The sponsor is responsible for providing the attendees with verification records.**

(3) Initial Registration.

(A) A **professional** landscape architect who holds licensure in Missouri for less than twelve (12) months from the date of his/her initial licensure *[shall not be required to]* **need not** report continuing education hours at the first license renewal.

(4) Activities.

(A) The following suggested list may be used by all **professional** licensed landscape architects in determining the types of activities that may fulfill continuing education requirements:

1. Contact hours in attendance at short courses or seminars, dealing with landscape architectural, architectural, engineering, or land surveying subjects, as appropriate to each discipline and sponsored by colleges or universities;

2. Contact hours in attendance at technical presentations on subjects which are held in conjunction with conventions or at seminars related to materials use and function. Such presentations as those sponsored by the Council of Landscape Architectural Registration Boards (CLARB), American Society of Landscape Architects (ASLA), or similar organizations devoted to landscape architectural, architectural, engineering, or land surveying education may qualify**. CEUs are awarded only for those portions of the meeting that meet the requirements of this rule. Licensees serving as an officer or actively participating in a committee of the technical professional society or organization may earn a maximum of two (2) CEUs annually per organization. CEU credits are not earned until the end of each year of service is completed**;

3. Contact hours in attendance at short courses *[or]* seminars, **tutorials, workshops, correspondence courses, televised or videotaped courses, or in-house corporate sponsored educational courses** relating to business practice or new technology and offered by colleges, universities, professional organizations, or system suppliers**. A correspondence course must require the participant to show evidence of achievement with a final graded test**;

4. Contact hours spent in self-study courses sponsored by the CLARB, ASLA, or similar organizations**. Credit will be given for self-study courses only if an examination has been completed by the licensee and graded by the sponsor**;

5. Three (3) units preparing for each class hour spent teaching landscape architectural courses or seminars. Credit is allowed for first occurrence of teaching course or seminar per two- (2-) year renewal period. College or university faculty may not claim credit for teaching regular curriculum courses;

6. Contact hours spent in landscape architectural research, which is published or formally presented to the profession or public**. Five (5) CEUs are earned for a paper or article that is published in a nationally circulated technical journal or trade magazine. Credit cannot be claimed until that article or paper is actually published. CEUs earned for authoring a paper or article are limited to ten (10) CEUs per two- (2-) year renewal period**;

7. College or university credit courses dealing with landscape architectural subjects or business practice. Each semester hour *[shall]* equals fifteen (15) CEUs;

8. Contact hours spent in professional service to the public that draws upon the licensee's professional expertise on boards or commissions, such as: serving on planning commissions, park boards, city council, county commissions, or state registration boards **may earn a maximum of two (2) CEUs annually per organization. CEU credits are not earned until the end of each year of service is completed**;

[9. Contact hours, maximum of one (1) per annum, spent actively participating in a technical profession society or organization as an officer or member of a committee;]

*[10.]***9.** Contact hours spent in education tours of landscape architecturally significant projects, where the tour is sponsored by a college, university, or professional organization; or

*[11.]***10.** A one- **(1-)** time award of ten (10) CEUs will be granted for obtaining a work-related patent **within the renewal period**.

(5) Exemptions.

(A) A licensed **professional** landscape architect *[shall be deemed to have complied]* **may comply** with the foregoing continuing education requirements if the **professional** landscape architect attests in the required renewal that for not less than twenty-one (21) months of the preceding two- (2-) year period of licensure, the **professional** landscape architect is a government employee working as a **professional** landscape architect and assigned to duty outside the United States.

(6) Reactivation—Retired or Inactive.

(A) **Professional** *[L]***l**andscape architects, who so attest on their renewal that they are retired from active practice or are not engaged in the active practice of landscape architecture, may place their license in an inactive status **pursuant to section 327.622.1, RSMo**. Those doing so cannot practice but can still retain the title of **professional** landscape architect **and use the letters "PLA" behind their name**. Such **professional** landscape architect may, however, re-enter practice only after paying the required fee and satisfying the board of their proficiency. Proficiency may be established by any one (1) of the following:

1. Submitting verifiable evidence of compliance with the aggregate continuing education requirements for the reporting periods attested as retired from active practice or not engaged in active practice; or

2. Retake the landscape architectural registration examination; or

3. Fulfill alternative reentry requirements determined by the board, which serve to assure the board of the current competency of the **professional** landscape architect to engage in the practice of landscape architecture.

(9) Records.

(A) The responsibility of maintaining records, which can be used to support credits claimed, is the responsibility of the licensee. **Records required include but are not limited to: 1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and CEU credits earned; and 2) attendance verification records in the form of completion certificates which identify the participant by name, signed attendance receipts, a copy of a listing of attendees signed by a person in responsible charge, or other documents supporting evidence of attendance.** Each **professional** landscape architect shall complete and submit the required reporting form certifying that he/she has acquired the required continuing education hours. These records must be maintained for a period of four (4) years and copies must be furnished to the board for audit verification purposes, if requested. **If these records get lost or destroyed the licensee must inform the board, in writing, within thirty (30) days.** At its discretion, the board may randomly audit a portion of licensees each renewal period or a specific licensee if a complaint has been filed against the licensee. Any untrue or false statements or the use thereof with respect to course attendance or any other aspect of continuing education activity is fraud or misrepresentation and will subject the **professional** landscape architect to license revocation or other disciplinary action. If *[in the review,]* **audited and** the board finds that the CEU is not acceptable, the board shall inform the licensee of the criteria that has not been adhered to. The licensee *[shall have]* **may**

within three (3) months from the license renewal date *[in which to]* substantiate the original claim or *[to]* earn other credits to meet the minimum requirements.

AUTHORITY: sections ***41.946,*** *327.041,* ***327.171,*** *and 327.621, [RSMo Supp. 2011, and sections 41.946 and 327.171,] RSMo [2000]* ***2016****. Original rule filed Jan. 15, 2008, effective July 30, 2008. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 12—Complaints

PROPOSED AMENDMENT

20 CSR 2030-12.010 Public Complaint Handling and Disposition Procedure. The board is amending sections (1)–(7).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects shall receive and process each complaint made against any licensee or certificate holder of the board or unlicensed individual or entity, which complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 327, RSMo**, and/or the board rules**. Any member of the public or the profession or any federal, state, or local official may make and file a complaint with the board. Complaints *[shall be received]* from sources without the state of Missouri *[and]* **are to be** processed in the same manner as those originating within Missouri. No member of the Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects *[shall]* **who** file**s** a complaint with this board while s/he holds that office*[, unless that member excuses him/herself from]* **may participate in** further board deliberations or activity concerning the matters alleged within that complaint. The executive director or any staff member of the board may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints should be mailed or delivered to the following address: Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102. However, *[actual receipt of the complaint]* **all complaints received** by the board at its administrative office*[s]* in any manner *[shall be sufficient]* **will be processed**. Complaints may be made based upon personal knowledge or upon information and belief, reciting information received from other sources.

(3) All complaints shall be made in writing and *[shall]* fully identify the complainant by name and address. Complaints may be made on forms provided by the board and are available upon request. Oral or telephone communications will not be considered or processed as complaints, but the person making such communications will be provided with a complaint form and requested to complete it and return it to the board. Any member of the administrative staff of the board may make and file a complaint based upon information and belief, in reliance upon oral, telephone, or written communications received by the board, unless those communications are believed by the staff member to be false.

(4) Each complaint received under this rule shall be logged in **consecutive order in** a book maintained by the board for that purpose. *[Complaints shall be logged in consecutive order as received.]* The logbook shall contain a record of each complainant's name and address; the name and address of the subject(s) of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of, including the name of any person injured or victimized by the alleged acts or practices; a notation whether the complaint resulted in its dismissal by the board of informal charges being filed with the Administrative Hearing Commission; and the ultimate disposition of the complaint. This logbook shall be a closed record of the board, but *[shall]* **will** be available for inspection at the board's office*[s]* only by state senators, representatives**,** or by qualified officials within the executive branch of Missouri government having supervisory, auditing, reporting, or budgetary responsibilities or control over the board. *[Only upon receipt of a written request from a]***A** state senator, representative, or qualified official*[,]* **will be permitted to inspect the logbook only upon receipt of a written request from such official** which specifically assures that the request is directly related to their duties as a state senator, representative, or official of the executive branch of Missouri government*[, shall they be permitted to inspect the logbook]*.

(5) Each complaint shall be acknowledged in writing and investigated by the board. When the complaint is received, the board *[shall]* **will** write the complainant informing him/her of the fact and stating that the matter is being referred to the board for consideration at its next regularly scheduled meeting. *[Later,]* **Upon resolution of the complaint, the board will inform** the complainant *[shall be informed]* in writing of the ultimate disposition of the complaint, excluding judicial appeals and *[shall be provided]* **provide the complainant** with copies of the decisions, if any, of the Administrative Hearing Commission and the board at that time. *[Provided, that t]***T**he provisions of this subsection *[shall]* **are** not *[apply]* **applicable** to complaints filed by staff members of the board, based on information and belief, acting in reliance on third-party information received by the board.

(6) Both the complaint and any information obtained as a result of the investigation of the complaint shall be considered a closed record of the board *[and shall]* not *[be]* available for inspection by the public. During the investigative state, the board and its executive staff shall keep the complaint and the fact of its existence confidential to the extent practicable. However, a copy of the complaint and any attachments shall be provided to any person who is the subject of that complaint or his/her legal counsel, upon written request to the board.

(7) This rule *[shall not be deemed to]* **does not** limit the board's authority to file a complaint with the Administrative Hearing Commission charging a licensee or certificate holder of the board

with any actionable conduct or violation, whether or not such a complaint exceeds the scope of the acts charged in a preliminary public complaint filed with the board and whether or not any public complaint has been filed with the board.

*AUTHORITY: section 327.041, RSMo [Supp. 2014] **2016**. This rule originally filed as 4 CSR 30-12.010. Original rule filed Dec. 8, 1981, effective March 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 13—Supervision

PROPOSED AMENDMENT

20 CSR 2030-13.010 Immediate Personal Supervision. The board is amending the purpose statement, adding three (3) new sections, deleting two (2) sections, and renumbering as needed.

PURPOSE: This rule is being amended to change the term "engineering surveys" to "design surveys" and "documents" to "technical submissions" and to also update the rule to reflect modern day use of automated equipment.

*PURPOSE: This rule defines [what shall be considered] immediate personal supervision for architects, professional engineers, and **professional** landscape architects.*

(1) Immediate personal supervision is a combination of activities by which a licensee maintains control over those decisions that are the basis for the findings, conclusions, analysis, rationale, details, and judgments that are embodied in the development and preparation of the technical submissions. Immediate personal supervision requires providing personal direction, oversight, inspection, observation, and supervision of work being performed.

(2) Communications between the licensee and those persons who are performing the work include, but are not limited to, use of any of the following ways: direct face-to-face communications; written communications; U.S. mail; private express package delivery; electronic mail; facsimiles; telecommunications; or other current technology; provided that the licensee retains, maintains, and asserts continuing control and judgment.

(3) The licensee who signs and seals technical submissions in accordance with the provisions of section 327.411, RSMo, must be familiar with decisions made during preparation of the technical submissions in sufficient detail as to be able to personally answer any questions regarding substantive decisions as to the design.

*[(1)]***(4)** Specifications, drawings, reports, *[engineering]* **design** surveys**,** or other *[documents]* **technical submissions** will be deemed to have been prepared under the immediate personal supervision of *[an individual licensed with the board only]* **a licensee** when the following circumstances exist:

(A) The client requesting preparation of specifications, drawings, reports, *[engineering]* **design** surveys**,** or other *[documents]* **technical submissions** makes the request directly to the *[individual licensed with the board]* **licensee** or an employee of the *[individual licensed with the board]* **licensee** so long as the employee *[works in the licensed individual's place of business and not a separate location]* **is employed directly under the licensee's organizational structure**;

(B) The *[individual licensed with the board shall]* **licensee provides initial direction in development of the design and** supervise**s** each step of the preparation of the specifications, drawings, reports, *[engineering]* **design** surveys**,** or other *[documents]* **technical submissions** and has input into their preparation prior to their completion;

(C) The licensee is not employed by the client solely for the purpose of reviewing and approving specifications, drawings, reports, design surveys, or other technical submissions prepared by an unlicensed person, employee, or contractor of the client;

*[(C)]***(D)** The *[individual licensed with the board]* **licensee** reviews the final specifications, drawings, reports, *[engineering]* **design** surveys**,** or other *[documents]* **technical submissions** and is able to, and does make, necessary and appropriate changes to them; and

*[(D)]***(E)** In circumstances where a licensee in responsible charge of the work is unavailable to complete the work, or the work is a site adaptation of a standard design drawing, or the work is a design drawing signed and sealed by an out-of-jurisdiction licensee, a successor licensee may take responsible charge by performing all professional services to include developing a complete design file with work or design criteria, calculations, code research, and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor licensee but must clearly and accurately reflect the successor licensee's work. The burden is on the successor licensee to show such compliance. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all *[documents]* **technical submissions**.

*[(2)]***(5)** The specifications, drawings, reports, *[engineering]* **design** surveys**,** or other *[documents]* **technical submissions** shall be signed and sealed per the provisions of section 327.411, RSMo.

[(3) The individual licensed with the board shall supervise each step of the preparation of the specifications, drawings, reports, engineering surveys or other documents and has input into their preparation prior to their completion.

(4) The individual licensed with the board reviews the final specifications, drawings, reports, engineering surveys or other documents and is able to, and does make, necessary and appropriate changes to them.]

*AUTHORITY: section 327.041, RSMo [Supp. 2005] **2016**. This rule originally filed as 4 CSR 30-13.010. Original rule filed Dec. 8, 1981, effective March 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

PUBLIC COST: This proposed amendment will not cost state agencies

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 13—Supervision

PROPOSED AMENDMENT

20 CSR 2030-13.020 Immediate Personal Supervision for Professional Land Surveyors. The board is amending the purpose statement, adding three (3) new sections, and renumbering as necessary.

PURPOSE: This rule is being amended to reflect modern day usage of automated equipment.

*PURPOSE: [The board shall] **This rule** defines [what shall be considered] immediate personal supervision for professional land surveyors.*

(1) Immediate personal supervision is a combination of activities by which a professional land surveyor maintains control over those decisions that are the basis for the findings, conclusions, analysis, rationale, details, and judgments that are embodied in the development and preparation of plats, maps, preliminary subdivision plans, drawings, reports, descriptions, surveys, or other technical submissions. Immediate personal supervision requires providing personal direction, oversight, inspection, observation, and supervision of work being performed.

(2) Communications between the professional land surveyor and those persons who are performing the work include, but are not limited to, use of any of the following ways: direct face-to-face communications; written communications; U.S. mail; private express package delivery; electronic mail; facsimiles; telecommunications; or other current technology; provided that the professional land surveyor retains, maintains, and asserts continuing control and judgment.

(3) The professional land surveyor who signs and seals plats, maps, preliminary subdivision plans, drawings, reports, descriptions, surveys, or other technical submissions in accordance with the provisions of section 327.411, RSMo, must be familiar with decisions made during preparation of the documents in sufficient detail as to be able to personally answer any questions regarding substantive decisions.

*[(1)]***(4)** Plats, maps, preliminary subdivision plans, drawings, reports, descriptions, surveys**,** or other *[documents]* **technical submissions** will be deemed to have been prepared under the immediate personal supervision of a professional land surveyor *[licensed with the board only]* when **the following circumstances exist**—

(A) The client requesting preparation of plats, maps, preliminary subdivision plans, drawings, reports, descriptions, surveys**,** or other *[documents]* **technical submissions** makes the request directly to the professional land surveyor *[licensed with the board]* or an employee of the professional land surveyor *[licensed with the board]*, so long as the employee *[works in the licensed individual's place of business and not at a separate location]* **is employed directly under the professional land surveyor's organizational structure**;

(B) The professional land surveyor *[licensed with the board shall]* **provides initial direction and** supervises each step of the preparation of the plats, maps, preliminary subdivision plans, drawings, reports, descriptions, surveys**,** or other *[documents]* **technical submissions** and has input into their preparation prior to their completion; *[and]*

(C) The professional land surveyor is not employed by the client, solely for the purpose of reviewing and approving plats, maps, preliminary subdivision plans, drawings, reports, descriptions, surveys, or other technical submissions prepared by an unlicensed person, employee, or contractor of the client; and

*[(C)]***(D)** The professional land surveyor *[licensed with the board]* reviews the final plats, maps, preliminary subdivision plans, drawings, reports, descriptions, surveys**,** or other *[documents]* **technical submissions** and **is able to, and does** make*[s]***,** necessary and appropriate changes to them.

*[(2)]***(5)** During a land survey the professional land surveyor *[licensed with the board]* shall:

(A) Supervise and review prior to making the survey the acquisition of all necessary records and data including, but not limited to, deeds, maps, certificates of title, abstracts of title, section line**,** and other boundary line locations in the vicinity;

(B) Supervise and review prior to making the survey the analysis of all the record data in order to determine the most nearly correct legal boundaries of the tract to be surveyed;

(C) Supervise and review the investigation of the selection of the ground control (such as section corners, block corners, survey corners**,** or other corners or monuments found) as a result of the filed survey to be used to position the survey on the ground; and

(D) Supervise and review the execution of the survey, the survey computations**,** and the preparation of the drawing.

*[(3)]***(6)** The plats, maps, preliminary subdivision plans, drawings, reports, descriptions, surveys**,** or other *[documents]* **technical submissions** shall be signed and sealed according to section 327.411, RSMo.

*AUTHORITY: section 327.041, RSMo [Supp. 2005] **2016**. This rule originally filed as 4 CSR 30-13.020. Original rule filed Dec. 16, 1988, effective Feb. 24, 1989. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 14—Definitions

PROPOSED AMENDMENT

20 CSR 2030-14.020 Definition of Baccalaureate Degree From Approved Curriculum as Used in Section 327.312.1(1), RSMo. The board is amending section (1).

PURPOSE: This rule is being amended to update the surveying coursework title descriptions and to increase the hourly requirement in Legal Aspects of Boundary Survey and decrease the hourly requirement in Surveying (B) courses.

(1) The approved curriculum for a baccalaureate degree as it applies to admission to the land surveyor-in-training program *[shall]* **will** be deemed acceptable if the candidate holding the degree has achieved all of the credits in college level courses in accordance with the following table:

General Title	Representative Course Titles	Semester Hours
Mathematics	Trigonometry, Algebra, Analytic Geometry, Calculus, Statistics	12
Communications	Technical Writing, Speech	3
Legal Aspects of Boundary Survey	Legal Principles of Surveying, Missouri Surveying Law, Legal Principles and Boundary Control, Legal Aspects of Surveying**, United States Public Land Surveying System (UPLSS)**	*[2]***3**
Science	Physics, *[Geology]* **Geophysics**, Astronomy, *[Dendrology,]* Computer Science, Remote Sensing*[, Graphics]*	12
Surveying (A)	Surveying I, Surveying II, Land Surveying, *[Land Survey Systems,]* Fundamentals of Surveying, Advanced Surveying, *[Electronic]* Surveying*[, Data Adjustment]* **Calculations**	6
Surveying (B)	*[Subdivision Planning and Layout, Hydrographic Surveying, Photogrammetric Surveying, Route and Construction Surveying, Engineering and Geodetic Astronomy, Topographic Surveying, Cartographic Surveying]* **Subdivision Design, Route and Construction Surveying, Geomatics, Introduction to GIS, Geodesy and Geodetic Positioning, Geospatial Technologies, Photogrammetry, UAS Mapping**	*[4]***3**

AUTHORITY: sections 327.041, [RSMo Supp. 2005] and 327.312, RSMo [2000] ***2016****. This rule originally filed as 4 CSR 30-14.020. Original rule filed Jan. 12, 1984, effective April 12, 1984. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 14—Definitions

PROPOSED AMENDMENT

20 CSR 2030-14.030 Definition of Twenty Semester Hours of Approved Surveying Course Work as Used in Section 327.312.1(2), RSMo. The board is amending section (1).

PURPOSE: This rule is being amended to update the surveying coursework title descriptions and to increase the hourly requirement in Legal Aspects of Boundary Survey and decrease the hourly requirement in Surveying (B) courses.

(1) The approved curriculum for a person applying for admission to the land surveyor-in-training program and who has at least sixty (60) semester hours of college level courses *[shall]* **will** be in accordance with the following table:

General Title	Representative Course Titles	Semester Hours
Mathematics	Trigonometry, Algebra, Analytic Geometry, Calculus, Statistics	8
Communications	Technical Writing, Speech	3
Legal Aspects of Boundary Survey	Legal Principles of Surveying, Missouri Surveying Law, Legal Principles and Boundary Control, Legal Aspects of Surveying**, United States Public Land Surveying System (UPLSS)**	*[2]***3**
Science	Physics, *[Geology]* **Geophysics**, Astronomy, *[Dendrology,]* Computer Science, Remote Sensing*[, Graphics]*	9
Surveying (A)	Surveying I, Surveying II, Land Surveying, *[Land Survey Systems,]* Fundamentals of Surveying, Advanced Surveying, *[Electronic]* Surveying*[, Data Adjustment]* **Calculations**	12
Surveying (B)	*[Subdivision Planning and Layout, Hydrographic Surveying,*	

	Photogrammetric Surveying, Route and Construction Surveying, Engineering and Geodetic Astronomy, Topographic Surveying, Cartographic Surveying] **Subdivision Design, Route and Construction Surveying, Geomatics, Introduction to GIS, Geodesy and Geodetic Positioning, Geospatial Technologies, Photogrammetry, UAS Mapping**	*[6]***5**

*AUTHORITY: section 327.041, RSMo [1986] **2016**. This rule originally filed as 4 CSR 30-14.030. Original rule filed Jan. 12, 1984, effective April 12, 1984. Moved to 20 CSR 2030-14.030, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects
Chapter 14—Definitions

PROPOSED AMENDMENT

20 CSR 2030-14.040 Definition of Twelve Semester Hours of Approved Surveying Course Work as Used in Section 327.312.1(3), RSMo. The board is amending section (1).

PURPOSE: This rule is being amended to update the surveying coursework title descriptions and to increase the hourly requirement in Legal Aspects of Boundary Survey and decrease the hourly requirement in Surveying (A) courses.

(1) The approved surveying course work as it applies to admission to the land surveyor-in-training program without either a baccalaureate or associate degree-type program *[shall]* **will** be deemed acceptable if the candidate has achieved all the credits in college level courses in accordance with the following table:

General Title	Representative Course Titles	Semester Hours
Surveying (A)	Surveying I, Surveying II, Land Surveying, *[Land Survey Systems,]* Fundamentals of Surveying, Advanced Surveying, *[Surveying Astronomy,]* Surveying Calculations*[, Boundary Surveying, Computers in Surveying, Electronic Surveying, Data Adjustment]*	*[10]***9**
Legal Aspects of Boundary Survey	Legal Principles of Surveying, Missouri Surveying Law, Legal Principles and Boundary Control, Legal Aspects of Surveying**, United States Public Land Surveying System (UPLSS)**	*[2]***3**

*AUTHORITY: section 327.041, RSMo [1986] **2016**. This rule originally filed as 4 CSR 30-14.040. Original rule filed Jan. 12, 1984, effective April 12, 1984. Moved to 20 CSR 2030-14.040, effective Aug. 28, 2006. Non-substantive change filed Oct. 21, 2015, published Dec. 31, 2015. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects, PO Box 184, Jefferson City, MO 65102, via facsimile at (573) 751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 1—General Organization and Procedures

PROPOSED AMENDMENT

20 CSR 2040-1.021 Definitions. The office is amending section (17).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(17) "Professional wrestling"—any performance of wrestling skills and techniques by two (2) or more professional wrestlers, to which any admission is charged. Participating wrestlers *[may not be]* **are not** required to use their best efforts in order to win, the winner may have been selected before the performance commences and contestants compete for valuable consideration. Such contests take place in a rope-enclosed ring and are fought in timed rounds.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-1.021. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in

support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 2—Licenses and Permits

PROPOSED AMENDMENT

20 CSR 2040-2.011 Licenses. The office is amending sections (2), (3), and (4).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) Each applicant for a license shall complete an application as prescribed by the office. The office will not process any application for a license that does not contain the proper fee and all information *[required]* from the applicant. The office will not refund license fees. All licenses expire on June 30 of each even numbered year following the date of issuance.

(3) An applicant for a professional boxing, professional wrestling, professional kickboxing**,** or professional full-contact karate contestant license shall *[be required to]* submit to any medical examination or testing ordered by the office.

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

AUTHORITY: section 317.006, RSMo [2000] ***2016****. This rule originally filed as 4 CSR 40-2.011. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 2—Licenses and Permits

PROPOSED AMENDMENT

20 CSR 2040-2.021 Permits. The office is amending sections (4) and (5).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(4) No promoter, official**,** or contestant *[shall]* **may** serve in any capacity at contests for which the office has denied a permit or for which a permit has not been issued. Such participation *[shall]* **may** be grounds for discipline.

(5) The promoter must have an approved permit before any publicity is issued on the contest. Violation of this provision *[shall]* **may** be grounds for discipline.

AUTHORITY: sections 317.006 and 317.011.1, RSMo [2000] ***2016****. This rule originally filed as 4 CSR 40-2.021. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 3—Ticket Procedures

PROPOSED AMENDMENT

20 CSR 2040-3.011 Tickets and Taxes. The office is amending sections (5), (9), (10), (11), and (12).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(5) A promoter *[shall]* **may** not issue complimentary tickets for more than four percent (4%) of the seats in the house without the office's written authorization. The promoter shall be responsible to pay the athletic tax prescribed in section 317.006.1(3), RSMo, for all complimentary tickets over and above the four percent (4%) maximum cap on complimentary tickets. If the office approves the issuance of complimentary tickets over and above the four percent (4%) cap, the complimentary tickets that are exempt from the athletic tax *[shall be]* **are** based on the lowest value complimentary tickets distributed. All complimentary tickets must indicate on the ticket that it is a complimentary ticket and its value had the ticket actually been purchased.

(9) Tickets of different prices *[shall]* **may** be printed on cardstock of distinctly different colors. The ticket stub shall indicate the price of the ticket.

(10) The inspector *[shall have supervision over]* **supervises** the

sale of tickets, ticket boxes**,** and entrances and exits for the purpose of checking admission controls. All ticket stubs collected by a ticket taker shall be deposited in a lock box provided by the office or other containers approved by the office. The inspector *[shall]* ensure**s** that all tickets are counted and that the final accounting includes the number of complimentary tickets, the face value of each ticket**,** and the total number of each ticket price category sold**,** and the gross receipts from all ticket sales.

(11) The final accounting shall be completed*[. The final accounting shall]* **and** include the amount of tax due from the promoter to the office.

(12) Any promoter holding a license and permit under these rules shall pay the office five percent (5%) of its gross receipts, less state, county**,** and city taxes, derived from admission charges. The gross receipts *[shall be]* **are** the amount received from the face value of all tickets sold, any complimentary tickets redeemed in excess of the four percent (4%) cap, and the value of any contracted amount, if applicable.

*AUTHORITY: section 317.006, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-3.011. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 3—Ticket Procedures

PROPOSED AMENDMENT

20 CSR 2040-3.030 Approval of Nationally Recognized Amateur Sanctioning Bodies. The office is amending sections (1), (3), and (4).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) An amateur sanctioning body seeking the approval of the office shall file a written application for approval. The office will provide an application form on request; however, use of the form is optional. An applicant shall provide supplemental information or affidavits establishing facts upon request within any reasonable time limit set by the office. Failure to timely respond to a request for supplemental information or affidavits *[shall]* **may** be deemed to be a withdrawal of the application.

(3) The office has observed that the nationally recognized sanctioning bodies with which it is familiar meet the following standards, and *[shall only]* approve**s only** those proposed nationally recognized amateur sanctioning bodies that meet the following requirements:

(4) The approval of a nationally recognized amateur sanctioning body expires on the thirtieth day of June in even numbered years. Renewal *[shall]* **may** be allowed upon application meeting the requirements of this rule.

*AUTHORITY: section 317.006.1, RSMo [2000] **2016**. Original rule filed March 27, 2007, effective Sept. 30, 2007. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 4—Licensees and Their Responsibilities

PROPOSED AMENDMENT

20 CSR 2040-4.015 Promoters. The office is amending sections (1), (2), (3), (4), (8), (9), and (10).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) No person, association, partnership, corporation, limited liability company, or any other form of business entity *[shall]* **may** promote any professional boxing, professional wrestling, professional kickboxing**,** or professional full-contact karate contest without obtaining a license from the Office of Athletics. Licensees shall not allow another to use their promoter's license. Promoters shall supervise their employees and *[shall]* **may** be liable for the conduct of those employees and for any violation of Chapter 317, RSMo or the rules adopted thereunder. The office shall deem any violations by an employee or representative of a promoter as a violation of the promoter.

(2) Before the office issues a promoter's license, the promoter shall provide the office a surety bond in the amount of five thousand dollars ($5,000) or an irrevocable letter of credit in the amount of at least five thousand dollars ($5,000) from a lending institution approved to do business in the United States to guarantee payment of all state athletic taxes and fees to the state. The irrevocable letter of credit may only be released upon written approval by the office. An additional bond or irrevocable letter of credit may be required in the amount specified by the office where it may be reasonably expected that the five thousand dollars ($5,000) bond or irrevocable letter of credit will not provide sufficient protection to the state. It *[shall be]* **is** the duty of each promoter to maintain all required bonds on a current status.

(3) The promoter shall apply for a permit for each contest. The application for permit and appropriate fee *[must]* **should** be received by the office not later than five (5) business days before the date of the professional contest for which the permit is being sought.

(4) Promoters *[shall]* **may** be liable for all contests held and for meeting all deadlines for permit and license applications. Within fifteen (15) business days after a contest the promoter shall pay the state athletic tax to the office.

(8) For adequate public safety, the promoter is responsible for ensuring that no bottled drinks, unless poured into disposable paper cups by vendors at the time of sale, are permitted in any hall or facility where any contest is being held. If the contest is staged out-of-doors disposable paper cups also *[must]* **may** be used on the site of the contest.

(9) Promoters and all licensed individuals and organizations associated with the contests *[shall be deemed to]* **should** have knowledge of the applicable laws and rules of the state. Any questions or interpretations should be referred to the office. If an immediate decision is *[required]* **needed**, it should be referred to the inspector present. In the event a situation occurs at the contest and there are no regulations in place to cover the situation, the inspector of the event will make a decision on the matter. The inspector's ruling *[shall]* **will** be final. The authority of the office and the inspectors shall be respected. No one *[shall]* **may** interfere with the inspectors' duties, use foul language**,** or make threats of physical harm toward the inspectors.

(10) Any promoter that fails to pay a contestant his or her purse within forty-eight (48) hours of the contest *[shall]* **may** be subject to discipline by the office.

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-4.015. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 4—Licensees and Their Responsibilities

PROPOSED AMENDMENT

20 CSR 2040-4.020 Matchmakers. The office is amending sections (2), (3), (4), and (5).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) The duties of the matchmaker shall include arranging the contest, matching the contestants as to weight and experience**,** and ensuring that all the *[required]* equipment is in its place. While the contests are in progress, the matchmaker *[shall]* **may** work with the inspector and will be directly liable for the promoter s/he represents.

(3) All boxing bouts shall be approved or disapproved by the office. A bout deemed to be a mismatch based on the record, experience, skill**,** and condition of the contestants as known or represented to the office at or before the bout, which could expose one **(1)** or both contestants to serious injury, will be denied. In addition all bout contestants must meet the following criteria to be approved:

(A) Any boxer who has lost their last ten (10) bouts by decision, technical knockout, or knockout *[shall]* **will** not be approved to box in a bout;

(B) Any boxer who has lost their last six (6) bouts by technical knockout or knockout *[shall]* **will** not be approved to box in a bout;

(4) The office reserves the right to question any applicant for a matchmaker's license, and, if in its judgment, the applicant does not have sufficient knowledge of the sport or is otherwise not deemed responsible to act, the license *[shall]* **may** be denied.

(5) No matchmaker in a specific contest *[shall]* **may** act in the capacity of a licensed manager or licensed second for that specific contest either directly or indirectly.

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-4.020. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 4—Licensees and Their Responsibilities

PROPOSED AMENDMENT

20 CSR 2040-4.030 Professional Boxing, Professional Wrestling, Professional Kickboxing, and Professional Full-Contact Karate Referees. The office is amending sections (2), (3), (4), (5), (8), (10), (11), (13), and (16).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) The office *[shall have the right to]* **may** deny a referee's license if, in its judgment, the applicant does not have sufficient knowledge or expertise in the sport and is otherwise not deemed

responsible to act.

(3) Referees *[shall]* **may** not wear spectacles while refereeing.

(4) The referee selected for each bout *[shall]* **will** be at the sole discretion of the office and such determination *[shall]* **may** be final. The promoter is responsible for all compensation for the referee. The office *[shall]* **will** set the amount of compensation to be provided to the referee.

(5) Before starting each bout, the referee will check with each judge and timekeeper to determine if each is ready, and also will ascertain the name of the chief second in each corner and *[shall]* **may** hold the chief second responsible for all conduct in his/her corner. The referee shall also verify that the physician is present at ringside.

(8) The referee *[shall]* **may** stop the bout for any of the following reasons:

(10) The referee shall warn the second(s) of violations of any rules relating to seconds. If after such a warning the second(s) does not conduct him/herself in accordance with the rules, the referee *[shall]* **may** warn the second(s) that further violations may result in disqualification of his/her contestant and/or removal from the corner.

(11) The referee shall instruct judges to mark their scorecards accordingly when s/he has assessed a foul upon one (1) of the contestants. The referee *[shall]* delivers the official scorecards to the inspector. When picking up the scorecards from the judges, the referee *[shall]* **may** see to it that the cards are computed and the winners and judges names are recorded. If not, the judges shall be instructed to complete scorecards correctly.

(13) When a fallen contestant rises and falls again without being hit again, the referee *[shall]* **may** continue the original count, rather than starting a new count. If the bell rings ending the round during the count, the count shall continue except when the bell rings ending the last round of the bout. A contestant *[shall be]* **is** deemed to be down when any part of his/her body, with the exception of his/her feet, is on the floor or if s/he is hanging helplessly on or over the ropes. A referee can count a contestant out either on the ropes or on the floor. During the eight- (8-)*[-]* count, the referee should assess the condition of the contestant and either allow him/her to continue or stop the bout. During any count, the opponent *[shall]* **should** immediately go to the neutral corner and remain there until the referee signals the bout is to be continued. In the event the contestant who has scored the knockdown fails to go to the neutral corner, the referee may stop the count until the contestant who scored the knockdown returns to the neutral corner.

(16) Whenever a contestant has been injured, knocked out, or technically knocked out, the referee shall immediately summon the attending physician to aid the stricken contestant. Except at the request of the physician, no manager(s) or second(s) *[shall]* **may** be permitted to aid the stricken contestant.

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-4.030. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 4—Licensees and Their Responsibilities

PROPOSED AMENDMENT

20 CSR 2040-4.040 Physicians for Professional Boxing, Professional Wrestling, Professional Kickboxing, and Professional Full-Contact Karate. The office is amending sections (1), (2), (5), and (7).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) Any physician, applying for licensure with the office, must hold a current license to practice medicine pursuant to Chapter 334, RSMo and *[must]* be in good standing with the State Board of Registration for the Healing Arts. Any such physician/applicant shall not be currently or have been under discipline from the State Board of Registration for the Healing Arts for a period of five (5) years preceding his/her application with the office.

(2) A physician licensed pursuant to sections 317.001 to 317.021, RSMo *[shall be]* **is** in charge of all physical examinations. S/he *[shall be]* **is** at ringside during all professional boxing, professional kickboxing, and professional full-contact karate contests and, if called upon, ready to advise the referee.

(5) If, upon physical examination, a contestant is determined to be unfit for competition, the contestant shall be *[prohibited]* **banned** from competing during that specific contest.

(7) The physician selected for each contest *[shall]* **will** be at the sole discretion of the office and such determination *[shall]* **may** be final. The promoter is responsible for all compensation for the physician. The office shall set the amount of compensation to be provided to the physician.

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-4.040. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 4—Licensees and Their Responsibilities

PROPOSED AMENDMENT

20 CSR 2040-4.050 Timekeepers. The office is amending all sections of the rule.

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) The timekeeper *[shall]* sounds the bell at the beginning and end of each round. The timekeeper shall also indicate by pounding the ring when there is ten (10) seconds remaining in the round to warn the referee of the end of the round. When there is ten (10) seconds remaining in the rest period between rounds the timekeeper shall sound a whistle or buzzer to warn the referee, contestants, and seconds of the beginning of the next round.

(2) It is the duty of the timekeeper to keep accurate time of all bouts. The timekeeper *[shall]* keeps an exact record of time taken out at the request of a referee for an examination of a contestant by the physician, or the replacement of a glove or adjustment of any equipment during a round and the timekeeper *[shall]* reports the exact time of a bout being stopped.

(3) The timekeeper shall be impartial. Any timekeeper who signals interested parties at any time during bouts *[shall]* **may** be subject to discipline.

(4) The timekeeper shall be responsible for the knockdown count. The timekeeper *[shall]* begins counting each second during the knockdown count. If the knockdown occurs within ten (10) seconds of the end of the round, the timekeeper shall not ring the bell until the referee indicates the contestant is ready.

(5) When officiating at professional wrestling contests, the timekeeper *[shall]* records the exact time of all falls. The timekeeper also *[shall notify]* **notifies** wrestling contestants between falls when it is time for them to return to the ring. Ten (10) minutes may be the maximum time allowed for rest periods between falls. Any delay on the part of a contestant in returning *[shall]* **may** be reported to the office.

(6) The timekeeper selected for each bout *[shall be]* **is** at the sole discretion of the office and such determination *[shall]* **may** be final. The promoter is responsible for all compensation for the timekeeper. The office shall set the amount of compensation to be provided to the timekeeper.

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-4.050. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 4—Licensees and Their Responsibilities

PROPOSED AMENDMENT

20 CSR 2040-4.060 Announcers. The office is amending sections (1) and (3).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) Announcers *[shall]* **will** announce the names of the officials, the contestants, their correct weights, the decisions of the referee and judges, and other matters as directed by the inspector. Other announcements *[shall]* **will** be limited to those pertaining to present and future contests unless specifically authorized by the office. Promoters shall provide equipment and facilities for announcing.

(3) At the end of each bout, an inspector shall deliver the scorecards to the announcer who *[shall]* **will** announce the results and immediately return the cards to the inspector.

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-4.060. Original rule filed April 30, 1982, effective Sept. 11, 1982[,]. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 4—Licensees and Their Responsibilities

PROPOSED AMENDMENT

20 CSR 2040-4.070 Seconds. The office is amending sections (2), (3), and (8).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) Unless special permission is given by the office, there shall be no

more than three (3) seconds, one (1) of whom will announce to the referee at the start of the bout that s/he is the chief second. Only one (1) second *[shall]* **may** be inside the ring between rounds, the other two (2) may be on the ring platform outside the ropes. Licensed managers *[shall]* **may** be permitted to act as seconds without being licensed as a second. While acting as a second, a licensed manager must observe all rules pertaining to the conduct of seconds.

(3) Seconds shall not enter the ring until the timekeeper indicates the end of the round. Seconds shall leave at the sound of the timekeeper's whistle or buzzer before the beginning of each round. If the chief second or anyone for whom s/he is responsible enters the ring before the bell ending the round has sounded, his/her license *[shall]* **may** be subject to discipline and the contestant whom s/he is handling may be disqualified. While the round is in progress, the chief second may mount the apron of the ring and attract the referee's attention indicating the retirement of the contestant. S/he shall not enter the ring unless the referee stops the bout and shall not interfere with a count that is in progress.

(8) Seconds violating any provisions of this rule *[shall]* **may** be immediately ejected from the ring corner.

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-4.070. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 4—Licensees and Their Responsibilities

PROPOSED AMENDMENT

20 CSR 2040-4.080 Judges for Professional Boxing, Professional Kickboxing, and Professional Full-Contact Karate. The office is amending sections (1), (2), (5), (6), and (7).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) There *[shall]* **will** be three (3) judges *[required]* for each bout. A bout will be scored on a ten- (10-)*[-]* point must system.

(2) The judges shall reach their decisions without conferring in any manner with any other official or person including the other judges of the panel. Each judge shall make out his/her scorecard in accordance with provisions of the rules governing professional boxing, professional kickboxing**,** and professional full-contact karate. At the end of the round, the score shall be totaled and signed or initialed by each judge. The referee working the bout *[shall]* **may** collect the scorecards after each round and hand them to the inspector.

(5) The judges selected for each bout shall be at the sole discretion of the office and such determination *[shall]* **may** be final. The promoter is responsible for all compensation for the judges. The office *[shall]* set**s** the amount of compensation to be provided to the judges.

(6) Before the office issues a judge's license:

(A) The applicant must:

1. Certify that s/he has read and understands Missouri laws and rules. Upon such certification the applicant *[shall be]* **is** deemed to have full knowledge and understanding of said laws and rules; and

2. Have two (2) years of documented experience judging boxing matches. It is not necessary that this experience be obtained by judging professional boxing, professional wrestling, professional kickboxing**,** or professional full-contact karate.

(7) The office may deny an application for licensure as a judge if the applicant fails to meet the qualifications specified herein or fails to pass the written examination if such an examination is *[required]* **given** by the office.

*AUTHORITY: section 317.006, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-4.080. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 4—Licensees and Their Responsibilities

PROPOSED AMENDMENT

20 CSR 2040-4.090 Contestants. The office is amending sections (1), (2), (3), (5), (6), (7), (10), (12), (13), (19), (20), (22), (23), (24), and (25).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) An applicant applying for a license as a contestant shall*[:]*—

(A) Complete an application *[as required in]* **pursuant to** section (2) of 20 CSR 2040-2.011. Any person who provides incorrect information in an application for license as a contestant may be disciplined by the office;

(2) A contestant applying for renewal of a license shall*[:]*—

(A) Complete an application *[as required in]* **pursuant to** section (2) of 20 CSR 2040-2.011. Any person who provides incorrect information in an application for license as a contestant may be disciplined by the office;

(3) An applicant or contestant who does not pass the physical examination or receives positive results from any of the tests required in sections (1) and (2) *[shall]* **may** be denied the right to fight for that bout.

(5) Within forty-eight (48) hours before competing in any professional boxing, professional kickboxing, professional full-contact karate**,** or professional wrestling bout or contest, each contestant shall*[:]*—

(A) Submit certified copies of medical tests performed by a laboratory verifying that the applicant is not infected with the human immunodeficiency virus (HIV) or hepatitis B or C virus. The medical tests shall not be dated more than one hundred eighty (180) days before the scheduled bout or contest in which the contestant will compete. A statement from a medical doctor or doctor of osteopathy indicating that the applicant has successfully completed a full course of vaccinations for hepatitis B may be submitted in lieu of the medical tests required by this rule for hepatitis B*[.]***;**

(B) Female contestants shall verify in writing that the contestant has taken a reliable means of pregnancy testing and that the contestant is aware of her pregnancy status.

1. For purposes of this rule, a "reliable means of pregnancy testing" *[shall consist of]* **is** a pregnancy test administered by a state or local health department or a licensed medical doctor or licensed doctor of osteopathy. A "reliable means of pregnancy testing" may also include a self-administered pregnancy test that has been approved by the United States Food and Drug Administration or that is able to detect or determine the presence of human chorionic gonadotropin (hCG).

2. Verification *[shall]* **may** be in a form approved by the office.

3. The office strongly cautions against participating in any professional full-contact sport regulated by the office while pregnant*[.]***;**

(C) A contestant who fails to comply with the requirements of this rule shall not be allowed to compete as a contestant in any professional boxing, professional kickboxing, professional full-contact karate or professional wrestling bout or contest. The office may discipline any contestant who fails to provide truthful and accurate information *[as required by]* **pursuant to** this section.

(6) The office will issue an identification card to each boxing contestant for the purpose of registration pursuant to the Professional Boxing Safety Act of 1996, 15 U.S.C. section 6301 et seq., to each boxer who so applies. The boxer shall provide a recent photograph for the identification card and any other information that is requested by the office. An identification card *[may not]* **cannot** be substituted for the license to engage in boxing held by the boxer.

(7) Each contestant for professional boxing, professional kickboxing**,** or professional full-contact karate *[must]* **will** be weighed in the presence of the public, his/her opponent, a representative of the office**,** and an official representing the promoter*[,]* on scales approved by the office at any place designated by the office. If a contestant cannot be present at the designated time set by the office, a contestant *[shall]* **may** waive his/her rights under this section.

(10) Immediately preceding the contest, at a time designated by the office, all contestants must pass a physical examination given by a physician licensed by the office, in accordance with the office's rules and regulations. A contestant who does not pass the physical examination *[shall be denied the right to]* **cannot** fight *[for]* **in** that bout.

(12) A contestant licensed by the office may *[be required]* **have** to submit to any medical examination or test ordered by the office prior to participation in a bout.

(13) A boxing contestant shall present his/her identification card to the office representative at weigh-in for a bout and at any other time ordered by the office or its representative. Failure to possess the card *[shall]* **may** result in the boxing contestant being disallowed to participate in a bout.

(19) Contestants for professional wrestling *[shall]* **may** include anyone participating in any wrestling activities whether inside or outside the ring during a contest.

(20) The belt of the trunks *[must not]* **cannot** extend above the waist line.

(22) Each contestant *[must]* **should** be clean and present a tidy appearance.

(23) The excessive use of petroleum jelly *[shall]* **may** not be used on the face or body of a contestant. The referees or the office's representative in charge *[shall]* **may** cause any excessive petroleum jelly to be removed.

(24) The office's representative *[shall]* **may** determine whether head and facial hair presents any hazard to the safety of the contestant or his/her opponent or would interfere with the supervision and conduct of the bout. If the head and facial hair of the contestant present such a hazard or would interfere with the supervision and conduct of the bout, the contestant *[shall]* **may** not compete in the bout unless the circumstances creating the hazard or potential interference are corrected to the satisfaction of the office's representative.

(25) A contestant *[may]* **will** not wear any jewelry or other piercing accessories while competing in a bout.

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-4.090. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 5—Inspector Duties and Rules for Professional Boxing, Professional Wrestling, Professional Kickboxing, and Professional Full-Contact Karate

PROPOSED AMENDMENT

20 CSR 2040-5.010 Inspectors. The office is amending sections (2), (5), (6), and (8).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) In all contests, contestants, promoters, managers, matchmakers, judges, referees, timekeepers, seconds, announcers**,** and physicians at all times *[shall be]* **are** under the direction of the office or its inspector(s).

(5) The ticket taker immediately must deposit every admission ticket,

pass**,** or complimentary ticket in a securely locked box. It *[shall]* **may** be opened only in the presence of the office's inspector *[who shall]* **to** see that all tickets or passes are carefully counted and reported to the office, along with the price of admission charged for each class of tickets and exchanges and the gross receipts of all tickets and exchanges.

(6) Before the start of a contest, an inspector must check all contestants, promoters, managers, matchmakers, announcers, seconds, timekeepers, referees**,** and physicians for licenses issued by the office. Any of those persons without a current license issued by the office *[shall]* **may** not participate in the contest, until an application and fee has been received and the application is approved by the office.

(8) An inspector must examine and approve all hand wrappings being placed on contestants. After approval**,** all handwraps *[must]* **will** be initialed by the inspector present.

*AUTHORITY: section 317.006, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-5.010. Original rule filed April 30, 1982, effective Sept 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 5—Inspector Duties and Rules for Professional Boxing, Professional Wrestling, Professional Kickboxing, and Professional Full-Contact Karate

PROPOSED AMENDMENT

20 CSR 2040-5.030 Rules for Professional Wrestling. The office is amending sections (1), (3), (5), (6), (8), (12), (14), (15), (16), and (17).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) The promoter *[shall be liable]* **is responsible** for ensuring that all statutes and rules promulgated by the office are strictly observed and carried out, including using only licensed individuals at all contests.

(3) Wrestler's Equipment.

(A) A wrestler *[shall]* **will** be clothed in clean apparel.

(5) Ring Barrier.

(A) A ring *[shall be]* **is** enclosed within a barrier which shall be erected between the ring and the seating area in the arena.

(6) Time Limits.

(A) A wrestling match *[shall]* **may** have a maximum time limit of sixty (60) minutes.

(8) Conduct of Wrestling Contest.

(A) A wrestling contest *[shall]* **will** be determined by*[:]*—

1. One (1) fall; or
2. Two (2) out of three (3) falls.

(12) *[Prohibited]* **Disallowed** Activities.

(A) The following actions are *[prohibited]* **disallowed**:

1. Inhibiting breathing by covering the nose and mouth at the same time; and
2. Unsportsmanlike or physically dangerous conduct.

(C) No wrestling contestant *[shall]* **may** use a foreign object(s) or prop(s) with the deliberate intent to lacerate himself or herself, or one's opponent. No animal blood or human blood, other than that of the wrestling contestants that is incidentally introduced during a match, may be used as a prop or special effect in any wrestling match. Vials, capsules**,** or any vessel containing a gel substance appearing to be or simulating blood may be used as a prop or special effect during a wrestling contest so long as the container cannot cause lacerations upon breakage. The intent to use a foreign object(s) or prop(s) during a wrestling match must be disclosed to the office prior to any wrestling contest and *[shall]* be subject to the approval of the inspector present at the event. This shall include any vial, capsule**,** or container holding a gel substance that is meant to simulate blood.

(14) Tag Team Wrestling.

(E) A tag team contest shall be conducted as follows:

1. The contest *[shall]* **will** begin with one (1) wrestler from each team inside the ring while the respective partners remain outside the ring on the apron;
2. The wrestler(s) outside the ring may not enter the ring unless a fall is scored or his/her partner has tagged his/her hand;
3. In order to be eligible to receive a tag, the wrestler's partner shall be outside the ring on the apron in the proper corner with both feet on the ring apron and only receive the tag over the top ring rope;
4. When the tag is made, the wrestler making the tag shall leave the ring as the partner enters the ring;
5. Only two (2) wrestlers from opposing teams *[shall be]* **are** permitted to be in the ring at any one (1) time;
6. After the scoring of a fall**,** a wrestler may relieve the partner;
7. If a wrestler is unable to continue, the wrestler's partner *[shall]* **may** continue the contest alone;
8. The referee may call time after an injury to permit the injured wrestler to be removed from the ring; and
9. Release the rope provided in the team corner until officially tagged by the partner.

(15) The referee shall warn a team of any *[prohibited]* **disallowed** conduct and may disqualify a team for persisting in *[prohibited]* **disallowed** conduct after a warning.

(16) A wrestler may have a second who*[:]*—

(B) The referee may immediately eject from the ring area any second engaging in *[prohibited]* **disallowed** activities after sufficient warning.

(17) Referee.

(A) The referee *[shall have the authority to]* conduct**s** the contest and enforce**s** the regulations of the office;

(B) The referee's decision on any matter, whether arising under these regulations or not, *[shall be]* **is** final; and

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-5.030. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 5—Inspector Duties and Rules for Professional Boxing, Professional Wrestling, Professional Kickboxing, and Professional Full-Contact Karate

PROPOSED AMENDMENT

20 CSR 2040-5.040 Rules for Professional Boxing. The office is amending sections (1), (2), (4), (5), (7), (10), (11), (12), (13), (15), (17), (19), (21), and (22).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) No bout *[shall]* **may** exceed twelve (12) rounds nor be less than four (4) rounds. Rounds involving male contestants shall be no more than three (3) minutes in length with a one (1) minute rest period in between rounds. Rounds involving females shall be no more than two (2) minutes in length with a one (1) minute rest period between rounds.

(2) Before a contest permit will be issued, each professional boxing contest shall include a scheduled main bout of at least eight (8) rounds and at least one (1) semi-main bout of at least six (6) rounds. The remaining bouts may not be less than four (4) rounds each. A contest *[must]* **should** have a minimum of four (4) bouts totaling not less than twenty-four (24) rounds. The Office of Athletics may waive any of these restrictions at its discretion.

(4) Contestants shall only fight contestants in their own weight category unless permission is granted by the office. In no instance *[shall]* **may** the office waive the weight category requirements, when the contestant's weight span exceeds ten (10) pounds excluding the weight classifications in subsections (L) and (M) of this section. Following is the schedule of weight classification:

(5) Boxing Contestants.

(B) No contestant under the age of eighteen (18) years shall be permitted to participate in a boxing contest. No contestant under the age of twenty-one (21) shall be permitted to box more than six (6) rounds until s/he has participated in ten (10) or more professional bouts. No contestant participating in his/her professional debut shall be permitted to box more than six (6) rounds in length for the first ten (10) professional bouts. Contestants may *[be required]* **have** to present a birth certificate or picture identification to the office or inspector. False statements of age or other information shall be cause for discipline of the contestant's license. Contestants must complete all forms prescribed by the office. All contestants, upon request of the office or inspector, must furnish the office with a boxing passport or an identification card (ID) issued from his/her home state and a federal identification card issued by the Association of Boxing Commissions.

(7) If a contestant falls due to fatigue, or is knocked down by his/her opponent, s/he will be allowed ten (10) seconds to rise unassisted. Following a contestant's fall, his/her opponent shall go to the farthest neutral corner and remain there during the count. The referee shall stop counting if the opponent fails to go to the neutral corner, then resume the count where it was left off when the opponent goes to the neutral corner. A contestant who is knocked out or falls out of the ring *[shall be]* **is** allowed **up to** twenty (20) seconds to return to the ring.

(10) Preliminary contestants *[shall]* **should** be ready to enter the ring immediately after the finish of the preceding bout. Any contestant causing a delay by not being ready to immediately proceed when called may be subject to discipline.

(11) Any boxing contestant who has participated in a professional bout anywhere *[shall]* **will** not participate in a boxing bout in Missouri for at least seven (7) days after the previous bout. Any boxing contestant who is currently on suspension or revocation from any boxing commission, domestic or foreign, shall not participate in any bout in Missouri until the suspension or revocation is lifted.

(12) No person other than the contestants and the referee shall enter the ring during a bout. There *[shall]* **should** be no standing or other distractions by seconds or managers while the bouts are in progress. Offenders *[shall]* **may** be removed from the corners and their license *[shall]* **may** be subject to discipline. The physician may enter the ring if asked by the referee to examine an injury to a contestant.

(13) Handwraps shall not exceed the following restrictions: one (1) winding of surgeon's adhesive tape, not over one and one-half inches (1 1/2") wide, placed directly on the hand to protect the hand near the wrist. The tape may cross the back of the hand twice but shall not extend within one inch (1") of the knuckles when the hand is clenched to make a fist. Contestants shall use soft surgical bandage not over two inches (2") wide, held in place by not more than two feet (2') of surgeon's adhesive tape for each hand. One (1) twenty-(20-)*[-]* yard roll of bandage shall complete the wrappings for each hand. Bandages *[shall]* **may** be adjusted in the presence of an inspector and both contestants. Either contestant may waive the privilege of witnessing the bandaging of opponent's hands.

(15) Contestants must wear proper athletic attire and appropriate protective devices including mouthpiece and protective foul-proof cup. If the mouthpiece comes out during the fight, the referee *[shall]* **may** have the second replace the mouthpiece at the first lull in the action.

(17) Twenty (20) points *[shall]* **may** be the maximum number scored in any round. The round winner will receive ten (10) points and his/her opponent proportionately less. If the round is even, each contestant will receive ten (10) points.

(19) The following tactics or actions shall be fouls:

(T) Any other actions that are deemed fouls by the referee that are not described above and approved by the inspector *[shall]* **may** be called by the referee.

(21) Injuries sustained by fouls:

(A) Intentional Fouls.

1. If an intentional foul causes an injury, and the injury is severe enough to terminate a bout immediately, the boxer causing the injury shall lose by disqualification.

2. If an intentional foul causes an injury and the bout is allowed to continue, the referee will notify the authorities and deduct two (2) points from the boxer who caused the foul. Point deductions for intentional fouls will be mandatory*[.]***; and**

3. If an intentional foul causes an injury and the injury results in the bout being stopped in a later round, the injured boxer will win by technical decision if s/he is ahead on the scorecards or the bout will result in a technical draw if the injured boxer is behind or even on the scorecards.

4. If a boxer injures him/herself while attempting to intentionally foul his/her opponent, the referee will not take any action in his/her favor, and this injury will be the same as one produced by a fair blow.

5. If the referee feels that a boxer has conducted him/herself in an unsportsmanlike manner s/he may stop the bout and disqualify the boxer.

(B) Accidental Fouls.

1. If an accidental foul causes an injury severe enough for the referee to stop the bout immediately, the bout will result in a no contest if stopped before four (4) completed rounds.

2. If an accidental foul causes an injury severe enough for the referee to stop the bout immediately, after four (4) rounds have been completed, the bout will result in a technical decision, awarded to the boxer who is ahead on the scorecards at the time the bout is stopped. A partial or incomplete round will be scored. If no action has occurred, the round should be scored as an even round. This is at the discretion of the judges.

3. A fighter who is hit with an accidental low blow *[must]* **may** continue after a reasonable amount of time but no more than five (5) minutes or s/he will lose the fight by technical knockout.

(22) In case of a cut, the referee may consult the physician to determine if the bout *[shall]* **should** be stopped or can continue. If the physician steps on the ring apron, the referee must have the injured contestant examined by the physician. Final authority rests with the referee. If the boxer who is cut by legal blows cannot continue, that boxer *[shall]* lose**s** by technical knockout.

*AUTHORITY: sections 317.006 and 317.015, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-5.040. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 5—Inspector Duties and Rules for Professional Boxing, Professional Wrestling, Professional Kickboxing, and Professional Full-Contact Karate

PROPOSED AMENDMENT

20 CSR 2040-5.060 Rules for Professional Kickboxing and Professional Full-Contact Karate. The office is amending sections (4), (5), (6), (7), (8), (10), (11), (13), (15), and (20).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(4) Handwraps *[shall]* **may** not exceed the following restrictions: one (1) winding of surgeon's adhesive tape, not over one and one-half inches (1 1/2") wide, placed directly on the hand to protect the hand near the wrist. The tape may cross the back of the hand twice but shall not extend within one inch (1") of the knuckles when the hand is clenched to make a fist. Contestants shall use soft surgical bandage not over two inches (2") wide, held in place by not more than two feet (2') of surgeon's adhesive tape for each hand. One (1) twenty-(20-)*[-]* yard roll of bandage shall complete the wrappings for each hand. Bandages *[shall]* **may** be adjusted in the presence of an inspector and both contestants. Either contestant may waive the privilege of witnessing the bandaging of opponent's hands.

(5) The weigh-in will be conducted within forty-eight (48) hours before the contest. The weigh-ins may be more than forty-eight (48) hours prior to the contest with special permission from the office. A contestant who fails to make the weight will be given up to two (2) hours to make *[required]* weight. Any contestant who fails to make the weight may be disqualified.

(6) Contestants *[shall]* **may** only fight contestants in their own weight category unless permission is granted by the office. In no instance shall the office waive the weight category requirements, when the contestant's weight span exceeds ten (10) pounds the weight classifications in subsections (L) and (M) of this section. Following is the schedule of weight classification:

(7) The referee *[shall have]* **has** general supervision of the bout. S/he enforces the rules, promotes safety of the contestants**,** and ensures fair play. Only the inspector may overrule the referee if the referee is not enforcing the rules. Before starting a bout the referee shall ascertain from each contestant the name of his/her chief second *[who shall be held]* responsible for the conduct of the assistant seconds during the progress of the bout. The referee *[shall]* **may** call contestants together before each bout for final instructions, at which time each contestant *[shall]* **may** be accompanied by the chief second only.

(10) Rounds involving male contestants *[shall]* **may** be no more than three (3) minutes in length with a one (1) minute rest period between rounds. Rounds involving females *[shall]* **may** be no more than two (2) minutes in length with a one (1) minute rest period between rounds. The maximum number of rounds for males and females *[shall be]* **is** twelve (12) rounds.

(11) Any contestant guilty of foul tactics in a round *[shall]* **will** be given an immediate warning or points may be deducted from the contestant's total score, or both, as determined by the referee. The use of foul tactics also may result in the disqualification of the contestant. The following tactics are considered fouls:

(Q) Any other actions that are deemed fouls by the referee or inspector that are not described above *[shall]* **may** be called by the referee and appropriate action *[shall be]* taken by the referee.

(13) A contestant who intentionally refuses to engage an opponent for a prolonged period of time *[shall]* **may** receive an immediate warning from the referee. If the contestant continues these tactics after a warning, a point will be deducted by the referee.

(15) In the event of serious cuts or injuries, the referee shall summon the physician who *[shall]* decide**s** if the bout should be stopped.

(20) Injuries sustained by fouls:

(A) Intentional Fouls.

1. If an intentional foul causes an injury, and the injury is severe enough to terminate a bout immediately, the contestant causing the injury *[shall]* **may** lose by disqualification.

2. If an intentional foul causes an injury and the bout is allowed to continue, the referee will notify the authorities and deduct two (2) points from the contestant who caused the foul. Point deductions for intentional fouls will be mandatory.

3. If an intentional foul causes an injury and the injury results in the bout being stopped in a later round, the injured contestant will win by technical decision if s/he is ahead on the scorecards or the

bout will result in a technical draw if the injured contestant is behind or even on the scorecards.

4. If a contestant injures him/herself while attempting to intentionally foul his/her opponent, the referee will not take any action in his/her favor, and this injury will be the same as one produced by a fair blow.

5. If the referee feels that a contestant has conducted him/herself in an unsportsmanlike manner s/he may stop the bout and disqualify the contestant*[.]***;**

*AUTHORITY: section 317.006, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-5.060. Original rule filed March 12, 1989, effective May 11, 1989. Rescinded and readopted: Filed Nov. 15, 2001, effective May 30, 2002. Moved to 20 CSR 2040-5.060, effective Aug. 28, 2006. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 6—Facilities

PROPOSED AMENDMENT

20 CSR 2040-6.010 Facility and Equipment Requirements. The office is amending sections (1) and (3).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) The ring *[shall]* **may** not be less than sixteen (16) nor more than twenty feet (20') inside the ropes. The apron of the ring floor shall extend beyond the ropes not less than two feet (2'). The ring shall not be more than four feet (4') above the floor of the building or grounds of an outdoor arena and shall be provided with suitable steps for the use of contestants, managers, seconds**,** and officials.

(3) Ring posts *[shall]* **may** not be less than three inches (3") or more than four inches (4") in diameter, extending from the floor of the building to the height fifty-eight inches (58") above the ring floor. The ring posts shall not be closer than eighteen inches (18") to the ring ropes. The turnbuckles must be covered with a protective padding.

*AUTHORITY: section 317.006, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-6.010. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 7—Disciplinary and Appeals Procedures

PROPOSED AMENDMENT

20 CSR 2040-7.010 Disciplinary and Appeals Procedures. The office is amending section (1).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) Complaints Against Licensees. Any person wishing to make a complaint against a licensee under sections 317.001–317.021, RSMo *[shall]* **may** file the written complaint with the office setting forth supporting details. If the office determines after an investigation, that the charges warrant discipline on the license, the office shall*[:]***—**

*AUTHORITY: section 317.006, RSMo [2000] **2016**. This rule originally filed as 4 CSR 40-7.010. Original rule filed April 30, 1982, effective Sept. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.020 Licensing. The office is amending sections (2) and (5).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) Each applicant for a license shall complete an application as prescribed by the office*[. The office shall not process any application for a license that does not contain]***, including** the proper fee and all information required from the applicant. The office shall

not refund license fees.

(5) If a licensee changes his/her name or address, he/she must notify the office in writing within ten (10) days after the change(s) becomes effective*[. Licensees are required to]*, **and** submit legal documentation approving the name change.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.030 Event Permits. The office is amending sections (6) and (7).

PURPOSE: *This rule is being amended to reduce unnecessary regulatory restrictions.*

(6) No promoter, official**,** or contestant *[shall]* **may** serve in any capacity at contests for which the office has denied a permit or for which a permit has not been issued. Such participation *[shall]* **may** be grounds for discipline.

(7) The promoter must have an approved permit before any advertisement, publicity**,** or other public announcement is issued for the contest. Violation of this provision *[shall]* **may** be grounds for discipline.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.040 Tickets and Taxes. The office is amending sections (1), (5), (6), (7), (10), (11), and (14).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) The right of admission to a professional mixed martial arts contest or the right to view a professional mixed martial arts contest *[shall]* **may** not be sold or otherwise granted to a person or entity unless that person or entity is provided with a ticket.

(5) A notice specifying a change in ticket prices or the dates of a contest or a notice specifying an amendment to the contract value of a contest of professional mixed martial arts shall be *[made]* in writing to the office within ten (10) business days of the event.

(6) A promoter shall not issue complimentary tickets for more than four percent (4%) of the seats in the house without the office's written authorization. The promoter *[shall be responsible to]* pay**s** the athletic tax prescribed in section 317.006.1(3), RSMo, for all complimentary tickets over and above the four percent (4%) maximum cap on complimentary tickets. If the office approves the issuance of complimentary tickets over and above the four percent (4%) cap, the complimentary tickets that are exempt from the athletic tax shall be based on the lowest value complimentary tickets distributed. Unless otherwise authorized by the office, all complimentary tickets shall indicate on the ticket that it is a complimentary ticket and its value had the ticket actually been purchased.

(7) A promoter *[shall be]* **is** assessed the athletic tax prescribed in section 317.006.1(3), RSMo, for any complimentary tickets that the office allows to be distributed over the four percent (4%) maximum cap. The face value of the complimentary tickets over the four percent (4%) maximum cap shall be the same as other like tickets sold in that particular section of the venue.

(10) The inspector *[shall have supervision over]* **supervises** the sale of tickets, ticket boxes, entrances**,** and exits for the purpose of checking admission controls. All ticket stubs collected by a ticket taker *[shall]* **should** be deposited in a lock box provided by the office or other containers approved by the office. The inspector *[shall]* ensure**s** that all tickets are counted and that the final accounting includes the number of complimentary tickets, the face value of each ticket**,** and the total number of each ticket price category sold and the gross receipts from all ticket sales.

(11) The final accounting *[shall]* **will** be completed*[. The final accounting shall]* **and** include the amount of tax due from the promoter to the office.

(14) The office's executive director, administrator**,** or their designee *[shall]* collect**s** all fees and taxes due.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.050 Contestants. The office is amending sections (1), (2), (3), (4), (5), (6), (7), and (10).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) An applicant applying for a license as a contestant shall*[:]*—

(A) Complete an application *[as required in]* **pursuant to** 20 CSR 2040-8.010;

(F) Submit certified copies of medical tests performed by a laboratory verifying that the applicant is not infected with the human immunodeficiency virus (HIV) or hepatitis B or C virus. The medical tests shall not be dated more than one hundred and eighty (180) days before the application is submitted. A statement from a physician or doctor of osteopathy indicating that the applicant has successfully completed a full course of vaccinations for hepatitis B may be submitted in lieu of the medical tests *[required by]* **pursuant to** this rule for hepatitis B.

(2) A contestant applying for renewal of a license shall*[:]*—

(A) Complete an application *[as required in]* **pursuant to** 20 CSR 2040-8.020. Any person who provides incorrect information on an application for license as a contestant may be disciplined by the office;

(D) Submit certified copies of medical tests performed by a laboratory verifying that the applicant is not infected with the human immunodeficiency virus (HIV) or hepatitis B or C virus. The medical tests shall not be dated more than one hundred eighty (180) days before the application is submitted. A statement from a physician or doctor of osteopathy indicating that the applicant has successfully completed a full course of vaccinations for hepatitis B may be submitted in lieu of the medical tests *[required by]* **pursuant to** this rule for hepatitis B.

(3) A contestant who is not determined by a physician to be physically fit to compete as a mixed martial arts contestant after the required physical examination or receives positive results for human immunodeficiency virus (HIV) or hepatitis B or C virus shall be denied the right to fight in a bout. However, a contestant that has tested positive for hepatitis B may participate in a bout if the contestant has successfully completed a full course of vaccinations for hepatitis B as verified by a physician or doctor of osteopathy, provided the contestant does not test positive for HIV or hepatitis C and is otherwise determined to be physically and mentally fit to compete as *[required by]* **pursuant to** the rules of the office.

(4) All fees involved with medical examinations and/or tests *[required in]* **pursuant to** sections (1) and (2), in addition to any drug test *[required in]* **pursuant to** subsection (6)(B) of this rule, *[shall]* **will** be the responsibility of the promoter, contestant**,** or applicant.

(5) Within forty-eight (48) hours before competing in any mixed martial arts bout or contest, each contestant shall*[:]*—

(A) Submit certified copies of medical tests performed by a laboratory verifying that the applicant is not infected with the human immunodeficiency virus (HIV) or hepatitis B or C virus. The medical tests shall not be dated more than one hundred eighty (180) days before the scheduled bout or contest in which the contestant will compete. A statement from a physician or doctor of osteopathy indicating that the applicant has successfully completed a full course of vaccinations for hepatitis B may be submitted in lieu of the medical tests *[required by]* **pursuant to** this rule for hepatitis B; and

(B) Female contestants *[shall]* **will** submit a written affidavit verifying that the contestant has taken a reliable means of pregnancy testing and that the contestant is aware of her pregnancy status and has voluntarily agreed to participate in the bout or contest.

1. For purposes of this rule, a "reliable means of pregnancy testing" shall consist of a pregnancy test administered by a state or local health department or a licensed medical doctor or licensed doctor of osteopathy. A "reliable means of pregnancy testing" may also include a self-administered pregnancy test that has been approved by the United States Food and Drug Administration or that is able to detect or determine the presence of human chorionic gonadotropin (hCG).

2. Affidavits shall be on a form approved by the office.

3. The office strongly cautions against participating in any professional full-contact sport regulated by the office while pregnant.

(C) A contestant who fails to comply with the requirements of this rule *[shall]* **will** not be allowed to compete as a contestant in any professional boxing, professional kickboxing, professional full-contact karate**,** or professional wrestling bout or contest. The office may discipline any contestant who fails to provide truthful and accurate information *[as required by]* **pursuant to** this section.

(6) Physical Examinations.

(B) A contestant licensed by the office may *[be required]* **have** to submit to any medical examination or test ordered by the office prior to participation in a bout, including a drug test. All fees involved with drug tests are the responsibility of the contestant. Failure to submit to a test upon notification and/or failure to pay all applicable testing fees may result in disciplinary action being taken against the contestant's license and the contestant being disallowed by the office to participate in the bout.

(7) Each contestant *[shall]* **should** report to the representative of the office in charge of dressing rooms at least thirty (30) minutes before the scheduled time of the first professional mixed martial arts contest. Failure to do so may result in the contestant being disallowed to participate in the bout.

(10) Any professional mixed martial arts contestant who has competed as a professional boxer, professional kickboxer, professional wrestler, professional martial arts**,** or professional mixed martial arts contestant anywhere in the world *[shall]* **will** not be allowed to compete as a contestant in any professional mixed martial arts bout in Missouri until seven (7) days have elapsed from the date of the previous bout.

AUTHORITY: sections 317.001 and 317.006, RSMo [2007] ***2016****. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.060 Inspectors. The office is amending sections (2), (5), and (6).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) In all contests, contestants, promoters, managers, matchmakers, judges, referees, timekeepers, seconds, announcers**,** and physicians at all times *[shall be]* **are** under the direction of the office or its inspector(s).

(5) The ticket taker shall immediately deposit every admission ticket, pass**,** or complimentary ticket in a securely locked box. It *[shall]* **may** be opened only in the presence of the office inspector who shall see that all tickets or passes are carefully counted and reported to the office, along with the price of admission charged for each class of tickets and exchanges and the gross receipts of all tickets and exchanges.

(6) Before the start of a contest, an inspector must check all contestants, promoters, managers, matchmakers, announcers, seconds, timekeepers, referees**,** and physicians for licenses issued by the office. Any of those persons without a current license issued by the office *[shall]* **may** not participate in the contest, until an application and fee has been received and the application is approved by the office.

AUTHORITY: sections 317.001 and 317.006, RSMo [2000] ***2016****. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.070 Judges. The office is amending sections (1), (2), (5), (6), and (7).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) *[There shall be three (3) judges required for each bout. All bouts shall be]* **Each bout shall have three (3) judges,** scored by each judge on a "ten (10) point must system." The winner of the round *[shall be]* **is** awarded ten (10) points and the loser of the round *[shall]* **may** be awarded nine (9) points or less, except for rare instances of an even round where each contestant *[shall]* **may** be awarded ten (10) points. Judges *[shall]* **will** judge mixed martial arts techniques, such as effective striking, effective grappling and control of the opponent, effective aggressiveness**,** and effective defense.

(2) The judges *[shall]* reach their decisions without conferring in any manner with any other official or person including the other judges of the panel. Each judge *[shall]* make**s** out his/her scorecard in accordance with provisions of the rules governing mixed martial arts. At the end of the round, the score shall be totaled and signed or initialed by each judge. The referee working the bout shall collect the scorecards after each round and hand them to the inspector.

(5) The judges selected for each bout *[shall be]* **is** at the sole discretion of the office and such determination *[shall be]* **is** final. The promoter is responsible for all compensation for the judges. The office *[shall]* **will** set the amount of compensation to be provided to the judges.

(6) Before the office issues a judge's license*[:]***—**

(A) The applicant shall certify that he/she has read and understands Missouri laws and rules. Upon such certification the applicant *[shall be]* **is** deemed to have full knowledge and understanding of said laws and rules; and

(7) The office may deny an application for licensure as a judge if the applicant fails to meet the qualifications specified herein or fails to pass the written examination if such an examination is *[required]* **offered** by the office.

AUTHORITY: sections 317.001 and 317.006, RSMo [2000] ***2016****. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.080 Matchmakers. The office is amending sections (1), (2), (3), and (4).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) A licensed matchmaker is required to be present at all mixed martial arts contests. The promoter and matchmaker *[shall]* **may** not be the same person.

(2) The duties of the matchmaker *[shall]* include arranging the contest, matching the contestants as to weight and experience**,** and ensuring that all the required equipment is in place. While the contests are in progress, the matchmaker *[shall]* work**s** with the inspector and *[shall be]* **is** directly liable for the promoter he/she represents.

(3) All professional mixed martial arts bouts *[shall be]* **are** approved or disapproved by the office. The office shall disapprove any bout deemed to be a mismatch based on the record, experience, skill**,** and condition of the contestants as known or represented to the office at or before the bout or which could expose one (1) or both contestants to serious injury. In addition, all professional mixed martial arts bout contestants shall meet the following criteria to be approved:

(4) The office reserves the right to examine any applicant for a matchmaker's license and, if in its judgment, the applicant does not have sufficient knowledge of the sport or is otherwise not deemed responsible to act, the office *[shall]* **may** deny the license.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.090 Physicians. The office is amending sections (2), (4), (5), and (7).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) A physician licensed pursuant to sections 317.001 to 317.021, RSMo shall be in charge of all physical examinations*[. The physician shall]* **and** be located immediately next to the fighting area during all professional mixed martial arts contests and, if called upon, ready to advise the referee.

(4) The physical examination given to contestants *[shall]* include**s**, at a minimum, the following: weight, pulse, lungs, blood pressure, heart, and general physical condition.

(5) If, upon physical examination, a contestant is determined by the physician to be unfit for competition, the contestant shall *[be prohibited from competing]* **not compete** during that specific contest.

(7) The physician selected for each contest *[shall be]* **is** at the sole discretion of the office and such determination shall be final. The promoter is responsible for all compensation for the physician*[. The office shall set the amount of compensation to be provided to the physician]***, in an amount set by the office**.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.100 Promoters. The office is amending sections (1), (2), (3), (7), and (8).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) No person, association, partnership, corporation, limited liability company, or any other form of business entity *[shall]* **may** promote any professional mixed martial arts contest without obtaining a license from the office. All promoters shall comply with the following requirements:

(A) Promoters *[shall be]* **are** liable for all contests held and for meeting all deadlines for permit and license applications;

(B) Promoters shall supervise their agents, employees**,** and representatives and *[shall]* **may** be liable for the conduct of those employees and for any violation of Chapter 317, RSMo, or the rules of the office. The office *[shall]* **will** deem any violation by an agent,

employee**,** or representative of a promoter as a violation of the promoter; and

(2) Mandatory Insurance.

(A) Before the office issues a promoter's license, the promoter shall provide the office a surety bond in the amount of five thousand dollars ($5,000) or an irrevocable letter of credit in at least the same amount, from a lending institution approved to do business in the United States to guarantee payment of all state athletic taxes and fees to the state. The irrevocable letter of credit may only be released upon written approval by the office. An additional bond or irrevocable letter of credit may be required in the amount specified by the office where it may be reasonably expected that the five thousand dollar ($5,000) bond or irrevocable letter of credit may not provide sufficient protection to the state. It *[shall be]* **is** the duty of each promoter to maintain all required bonds in a current status.

(3) Promoters *[shall be responsible for ensuring]* **ensure** the maintenance of adequate public safety for all contests. Failure to ensure adequate public safety may result in cancellation of a contest, discipline against a promoter's license**,** and/or denial of future contest permits.

(7) Promoters and all licensed individuals and organizations associated with the contests shall be deemed to have knowledge of the applicable laws and rules of the state. The promoter *[shall be responsible for seeing]* **sees** that all rules promulgated by the office are strictly carried out.

(8) Any promoter that fails to pay a contestant a purse within forty-eight (48) hours *[shall]* **may** be subject to discipline by the office.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.110 Referees. The office is amending sections (1), (4), (8), (10), (12), and (16).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) The referee is charged with the enforcement of all office rules that apply to the conduct of a mixed martial arts contest and the conduct of the contestants and contestant's second(s) while he/she is in the fighting area, including the ring. Before the office issues a referee's license*[:]***—**

(A) The applicant shall certify that he/she has read and understands Missouri laws and rules relating to the contest. Upon such certification the applicant *[shall be]* **is** deemed to have full knowledge and understanding of said laws and rules; and

(4) The referee selected for each bout *[shall be]* **is** at the sole discretion of the office and such determination shall be final. The promoter is responsible for all compensation for the referee. The office *[shall]* **will** set the amount of compensation to be provided to the referee.

(8) The referee may stop or terminate the bout for any of the following reasons:

(D) The referee determines that one (1) contestant has been knocked down. A contestant *[shall]* **may** be deemed to be knocked down if hanging helplessly on or over the fighting area enclosure or the contestant is physically unable to continue a match or to defend himself/herself; and

(10) In the event of serious cuts or injuries, the referee shall summon the physician who *[shall]* evaluate**s** the injury and may recommend the bout be stopped.

(12) The referee shall instruct judges to mark their scorecards accordingly when he/she has assessed a foul upon one (1) of the contestants. The referee shall deliver the official scorecards to the inspector. When picking up the scorecards from the judges, the referee shall see to it that the cards are completed and the contestants' and judges' names are recorded. If not, the judges *[shall]* **may** be instructed to complete scorecards correctly.

(16) Whenever a contestant has been injured, knocked out**,** or technically knocked out, the referee shall immediately summon the attending physician to aid the stricken contestant. Except at the request of the physician, no manager(s) or second(s) *[shall be permitted to]* **may** aid the stricken contestant.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.120 Seconds. The office is amending sections (2),

(3), and (4).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) Unless special permission is given by the office, there *[shall]* **should** be no more than three (3) seconds, one (1) of whom shall announce to the referee at the start of the bout that he/she is the chief second. Only one (1) second *[shall]* **may** be inside the fighting area between rounds, the other two (2) may be on the ring platform outside the fighting area. Licensed managers *[shall]* **may** be permitted to act as seconds without being licensed as a second. While acting as a second, a licensed manager shall observe all rules pertaining to the conduct of seconds.

(3) Seconds shall not enter the ring or fighting area until the timekeeper indicates the end of the round. Seconds shall leave at the sound of the timekeeper's whistle or buzzer before the beginning of each round. If the chief second or anyone for whom the second is responsible enters the ring or fighting area before the bell ending the round has sounded, his/her license *[shall]* **may** be subject to discipline and the contestant whom he/she is handling may be disqualified. While the round is in progress, the chief second may mount the apron of the ring or fighting area and attract the referee's attention indicating the retirement of the contestant. A second *[shall]* **may** not enter the ring or fighting area unless the referee stops the bout and shall not interfere with a count that is in progress.

(4) Seconds *[shall]* **may** not stand or lean on the ring or fighting area apron during the round.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.130 Timekeepers. The office is amending sections (3), (4), and (5).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(3) The timekeeper shall be impartial. Any timekeeper who signals interested parties at any time during bouts *[shall]* **may** be subject to discipline.

(4) The timekeeper *[shall be]* **is** responsible for the knockdown count. The timekeeper shall begin counting each second during the knockdown count. If the knockdown occurs within ten (10) seconds of the end of the round, the timekeeper *[shall]* **will** not ring the bell until the referee indicates the contestant is ready.

(5) The timekeeper selected for each bout *[shall be]* **is** at the sole discretion of the office and such determination *[shall be]* **is** final. The promoter is responsible for all compensation for the timekeeper. The office *[shall]* **will** set the amount of compensation to be provided to the timekeeper.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.140 Fouls. The office is amending sections (1), (2), and (4).

PURPOSE: This amendment updates the current fouls that are illegal and reduces unnecessary regulatory restrictions.

(1) Fouls. The following actions in a mixed martial arts bout or contest are defined as fouls:

[(A) Head butting;

(B) Eye gouging or openhand attacks to the eyes;

(C) Biting;

(D) Groin attacks of any kind;

(E) Pulling hair, ear or the nose;

(F) Palm heel strikes (using the heel of the palm of the hand to deliver a blow to the face);

(G) Fish hooking which is defined as grasping or pulling the inside of an opponent's cheek or nose;

(H) Inserting any body part into any orifice or into any cut or laceration of an opponent;

(I) Obstruction of breathing through the mouth or nose;

(J) Small joint manipulation (e.g., twisting of fingers or toes);

(K) Striking the spine, the medulla and/or the back of the head;

(L) Elbow attacks to the head or the face of the opponent;

(M) Driving or spiking an opponent straight to the ring or fighting area floor on his head or neck from an upright and vertical position;

(N) Attacking fingers;

(O) Striking downward using the point of the elbow. Arcing elbow strikes are permitted;

(P) Throat attacks or strikes of any kind, including, without limitation grabbing, striking or obstructing the trachea;

(Q) Clawing, twisting or pinching the flesh;

(R) Grabbing the clavicle;

(S) Kicking, kneeing or stomping the head of an opponent who is down or not standing. For purposes of this section, a contestant is down when any part of his/her body, other than his/her feet, touch the floor or if he/she is hanging helplessly on or over the fighting area enclosure;

(T) Kicking to the kidney with the heel;

(U) Spiking an opponent to the canvas on their head or neck;

(V) Intentionally pushing, shoving, wrestling or throwing an opponent out of the ring or fighting area;

(W) Holding the shorts or glove of an opponent and/or intentionally grabbing anything the opponent is wearing;

(X) Spitting on an opponent, referee or any other person;

(Y) Engaging in any unsportsmanlike conduct that causes an injury to an opponent or poses a safety risk;

(Z) Grabbing or holding the ropes, cage or fighting area enclosure and/or hanging the limbs of the body over the rope during a bout or contest;

(AA) Using abusive language or illicit gestures in or near the fighting area;

(BB) Attacking an opponent who is under the care of the referee or during the break;

(CC) Attacking an opponent after the bell has sounded the end of the round or bout;

(DD) Flagrantly disregarding the instructions of the referee;

(EE) Escaping or leaving the fighting area during the course of the bout or contest;

(FF) Intentional evasion of contact with an opponent, intentionally not using best efforts, intentionally or consistently dropping the mouthpiece or faking an injury;

(GG) Interference from anyone working the corner or anyone leaving the corner area, including, throwing any object on or into the fighting area by a contestant's corner staff; and

(HH) Throwing in the towel during competition.]

(A) Holding or grabbing the fence—a fighter may put their hands on the fence and push off of it at anytime. A fighter may place their feet onto the cage and have their toes go through the fencing material at any time. When a fighter's fingers or toes go through the cage and grab hold of the fence and start to control either their body position or their opponent's body position it is an illegal action. A fighter may not grab the ropes or wrap their arms over the ring ropes at any time. If a fighter is caught holding the fence, cage, or ring rope material the referee may issue a one- (1-) point deduction from the offending fighters scorecard if the foul caused a substantial change in position such as the avoidance of a takedown. If a point deduction for holding the fence occurs, and because of the infraction, the fouling fighter ends up in a superior position due to the foul, the fighters should be restarted by the referee, standing in a neutral position;

(B) Holding opponent's shorts or gloves—a fighter may not control their opponent's movement by holding onto their opponent's shorts or gloves. A fighter may hold onto or grab their opponent's hand as long as they are not controlling the hand only by using the material of the glove. It is legal to hold onto your own gloves or shorts;

(C) Butting with the head—any use of the head as a striking instrument whether head to head, head to body, or otherwise is illegal;

(D) Eye gouging of any kind—eye gouging by means of fingers, chin, or elbow is illegal. Legal strikes or punches that contact the fighter's eye socket are not eye gouging and are legal attacks;

(E) Biting or spitting at an opponent—biting in any form is illegal. A fighter should recognize that a referee may not be able to physically observe some actions, and make the referee aware if they are being bitten during an exhibition of unarmed combat;

(F) Hair pulling—pulling of the hair or holding the hair to control an opponent in any fashion is an illegal action;

(G) Fish hooking—any attempt by a fighter to use their fingers in a manner that attacks their opponent's mouth, nose, or ears, stretching the skin to that area, placing of fingers into the mouth of your opponent and pulling your hands in opposing directions while holding onto the skin of your opponent will be considered "fish hooking";

(H) Groin attacks of any kind—any attack to the groin area including, striking, grabbing, pinching, or twisting is illegal;

(I) Intentionally placing a finger into any orifice, or into any cut or laceration of your opponent—a fighter may not place their fingers into an open laceration in an attempt to enlarge the cut or into an opponent's, nose, ears, mouth, or any body cavity;

(J) Downward pointing of elbow strikes—a ceiling to floor or twelve to six (12–6) elbow strikes is prohibited.

(K) Small joint manipulation—fingers and toes are small joints. Wrists, ankles, knees, shoulders, and elbows are all large joints. In order to hold small joints, at least two (2) or more digits must be held;

(L) Strikes to the spine or the back of the head—strikes behind the crown of the head and above the ears within the Mohawk area and below the top of the ear are not permissible and within the nape of the neck area are not permissible;

(M) No intentional direct strikes to the kidney including heel kicks to the kidney;

(N) Throat strikes of any kind, including, without limitation, grabbing the trachea—no directed throat strikes, including, but not limited to, a fighter pulling his opponents head in a way to open the neck area for a striking attack or gouging their fingers or thumb into their opponent's neck or trachea in an attempt to submit their opponent are not allowed;

(O) Clawing, pinching, twisting the flesh, or grabbing the clavicle—any attack that targets the fighter's skin by clawing at the skin or attempting to pull or twist the skin to apply pain is illegal. Any manipulation of the clavicle is a foul;

(P) Kneeing and/or kicking the head of a grounded opponent—a grounded fighter is defined as: any part of the body, other than the soles of the feet, touching the fighting area floor. Also to be grounded the palm of one (1) hand must be down or posting of the fingers to the fighting area floor. A single knee or arm makes a fighter grounded without having to have any other body part in touch with the fighting area floor. At this time, kicks or knees to the head will not be allowed;

(Q) Stomping of a grounded fighter—stomping is considered any type of striking action with the feet where the fighter lifts their leg up bending their leg at the knee and initiating a striking action with the bottom of their foot or heel. Note: Axe kicks are not stomps. Standing foot stops are legal. As such, this foul does not include stomping the feet of a standing fighter;

(R) The use of abusive language in the fighting area;

(S) Any unsportsmanlike conduct that causes an injury to opponent;

(T) Attacking an opponent on or during the break—a fighter shall not engage their opponent in any fashion during a time-out or break of action in competition;

(U) Attacking an opponent who is under the care of the referee;

(V) Timidity (avoiding contact, or consistently dropping the mouthpiece, or faking an injury)—timidity is any fighter who purposely avoids contact with his opponent, or runs away from the action of the fight. Timidity can also be called by the referee

for any attempt by a fighter to receive time by falsely claiming a foul, injury, or purposely dropping or spitting out their mouthpiece or other action designed to stall the fight;

(W) Interference from a mixed martial artists seconds—interference is any action or activity aimed at disrupting the fight or causing an unfair advantage to be given to one (1) combatant. Corners are not allowed to distract the referee or influence the actions of the referee in any fashion;

(X) Throwing an opponent out of the ring or caged area;

(Y) Flagrant disregard of the referee's instructions—a fighter must follow the instructions of the referee at all times. Any deviation or non-compliance may result in the fighter's disqualification;

(Z) Spiking the opponent to the canvas onto the head or neck (pile-driving)—a pile driver is any throw where you control your opponent's body placing his feet straight up in the air with his head straight down and then forcibly drive your opponents head into the canvas or flooring material. It should be noted, when a fighter is placed into a submission hold by their opponent, if that fighter is capable of elevating their opponent they may bring that opponent down in any fashion they desire because they are not in control of their opponents body. The fighter who is attempting the submission can either adjust their position or let go of their hold before being slammed to the canvas;

(AA) Attacking an opponent after the bell has sounded the end of the round;

(BB) The end of the round shall occur when the bell or horn sounds ending the round; and

(CC) A fighter may not be saved by the bell or horn in any round, including the last round.

(2) Injuries Sustained by Fouls.

(B) Accidental Fouls.

1. If an accidental foul causes an injury severe enough for the referee to stop the bout immediately, the bout *[shall result in]* **is** a no contest if stopped before half of the scheduled rounds have been completed.

2. If an accidental foul causes an injury severe enough for the referee to stop the bout immediately after half of the scheduled rounds have been completed, the bout may result in a technical decision awarded to the contestant who is ahead on the scorecards at the time the bout is stopped. A partial or incomplete round *[shall be]* **is** scored. If no action has occurred, the round *[shall be]* **is** scored as an even round. This is at the discretion of the judges.

3. A contestant who is hit with an accidental low blow must continue after a reasonable amount of time, but no more than five (5) minutes, or he/she may lose the bout by technical knockout.

(4) A contestant who intentionally refuses to engage an opponent for a prolonged period of time *[shall]* **may** receive an immediate warning from the referee. If the contestant continues these tactics after a warning, a point(s) may be deducted by the referee.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Athletics, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-5649, or via email at athletic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.150 Weight Classes. The office is amending section (2).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) Contestants *[shall]* **may** only fight contestants in their own weight category unless permission is granted by the office.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.160 Attire and Equipment. The office is amending sections (1), (4), and (5).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) Physical Appearance. All contestants in a professional mixed martial arts bout or contest shall present a clean and tidy appearance and shall comply with the following:

(B) Hair shall be trimmed or tied back so that the hair does not interfere with the vision of the contestant or cover the contestant's eyes. The office's representative *[shall]* determine**s** whether a contestant's head and facial hair presents any safety hazard to the contestant or his/her opponent or would interfere with the supervision and conduct of the bout; and

(C) No substance other than Vaseline and/or a similar petroleum based product *[shall]* **may** be allowed on the face, arms**,** or any part of the body. Use of excessive Vaseline and/or similar petroleum

based products is prohibited.

(4) Gloves.

(A) Mixed martial arts contestants shall wear gloves that are appropriate in weight for the fighter and which shall be no less than four ounces (4 oz.) and no more than ten ounces (10 oz.) in weight. Contestants competing against each other in the same bout shall wear the same sized gloves. *[The contestants for each bout shall have a written bout agreement that is signed prior to the bout which identifies the weight of the gloves to be worn by the contestants.]*

1. Gloves shall be whole, clean**,** and in good condition. Broken gloves are prohibited during any bout or contest;

2. Gloves that are padded in the palm or fingertip area are prohibited; and

3. All gloves *[shall]* **will** be approved by the inspector prior to each bout. The inspector or a designee of the office may inspect gloves at any time.

(5) The inspector may prohibit a contestant from participating in a bout or contest if the contestant has or is wearing any equipment, apparel, hair or product that presents a safety hazard**,** or that may interfere with the supervision or conduct of the event. The contestant *[shall]* **may** not *[be prohibited from]* competing in the bout unless the circumstances creating the hazard or potential interference are corrected to the satisfaction of the office's representative.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.170 Weigh-Ins. The office is amending section (2).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) Each contestant for mixed martial arts *[shall]* **will** be weighed in the presence of his/her opponent, a representative of the office**,** and/or an official representing the promoter, on scales approved by the office at any place designated by the office. Weigh-ins are open to the public. If a contestant cannot be present at the designated time set by the office, a contestant *[shall]* waive**s** his/her rights under this section.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.180 Rules for Bouts/Contests. The office is amending sections (2), (3), (6), (7), (9), and (11).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(2) The referee *[shall have]* **has** general supervision of the bout. The referee enforces the rules, promotes safety of the contestants**,** and ensures fair play. Only the inspector may overrule the referee if the referee is not enforcing the rules. Before starting a bout the referee shall ascertain from each contestant the name of his/her chief second who shall be held responsible for the conduct of the assistant seconds during the progress of the bout. The referee shall call contestants together before each bout for final instructions, at which time each contestant shall be accompanied by the chief second only.

(3) The three (3) judges *[shall]* **will** be stationed at the sides immediately adjacent to the fighting area, each at a separate side. All bouts *[shall be]* **are** scored on a ten**-** (10-)*[-]* point must system. The judges shall turn scorecards over to the referee after each round. The referee shall then hand the scorecards to the inspector. A final decision *[shall]* **will** be made before the judges may leave the area. Any erasures or changes on the card shall be approved and initialed by the judge and inspector.

(6) Rounds.

(C) In no event *[shall]* **may** the rest period between any round in any bout be less than one (1) minute.

(7) Contestants who have been knocked out shall be kept lying down until they have recovered. When a contestant is knocked out, no one *[shall]* **may** touch him/her except the referee who *[shall]* **may** remove his/her mouthpiece, until the ringside physician enters the ring and personally attends **to** the contestant and issues necessary instructions to the contestant's second(s).

(9) Injuries.

(A) The referee, at his/her discretion, may request that the attending physician examine a contestant during the bout. Should the examination occur during the course of a round, the clock *[shall]* **will** be

stopped until the examination is completed. The physician may order the referee to stop the bout. The referee *[shall]* **will** then render the appropriate decision.

(B) In the event of serious cuts or injuries, the referee shall summon the physician who *[shall]* **will** decide if the bout may be stopped.

(11) All licensed individuals and organizations associated with the contests *[shall be]* **are** deemed to have knowledge of the applicable laws and rules of the state. Any questions or interpretations shall be referred to the office. If an immediate decision is required, it shall be referred to the inspector present. In the event a situation occurs at the contest and there are no regulations in place to cover the situation, the inspector of the event shall make a decision on the matter. The inspector's ruling *[shall be]* **is** final. The authority of the office and the inspectors shall be respected. No one shall interfere with the inspectors' duties, use foul language towards**,** or make threats of physical harm toward the inspectors.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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

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

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Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2040—Office of Athletics
Chapter 8—Mixed Martial Arts

PROPOSED AMENDMENT

20 CSR 2040-8.190 Facility and Equipment Requirements. The office is amending subsections (1)(A) and (1)(F).

PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.

(1) Requirements. The fighting area shall be constructed in a manner that does not pose a substantial risk to the safety or health of any person. The fighting area shall be no smaller than eighteen by eighteen feet (18'×18') and no larger than thirty-two by thirty-two feet (32'×32') and shall meet the following requirements:

(A) Floors. The floor of the fighting area must have a canvas covering that shall be padded with at least a one inch (1")-layer of foam padding *[that shall]* extend**ing** over the edge of the platform of the fighting area. No vinyl or other plastic rubberized covering *[shall be]* **is** permitted. Materials that may gather in lumps or ridges during the bout or contest may not be used. The platform of the fighting area canvas shall be no more than four feet (4') above the floor of the building and shall have suitable steps or ramps for use by officials and the contestants;

(F) The fighting area *[shall]* **will** be approved by the inspector, including, all padding or enclosures. Fighting areas that are not approved by the inspector may not be used for any professional mixed martial arts bout or contest.

*AUTHORITY: sections 317.001 and 317.006, RSMo [2000] **2016**. Original rule filed April 3, 2007, effective Oct. 30, 2007. Amended: Filed March 20, 2018.*

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