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SALUS POPULI SUPREMA LEX ESTO

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



JOHN R. ASHCROFT  
SECRETARY OF STATE

MISSOURI  
REGISTER

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Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
July 1, 2019 July 15, 2019	<b>August 1, 2019</b> <b>August 15, 2019</b>	August 31, 2019 August 31, 2019	September 30, 2019 September 30, 2019
August 1, 2019 August 15, 2019	<b>September 2, 2019</b> <b>September 16, 2019</b>	September 30, 2019 September 30, 2019	October 30, 2019 October 30, 2019
September 3, 2019 September 16, 2019	<b>October 1, 2019</b> <b>October 15, 2019</b>	October 31, 2019 October 31, 2019	November 30, 2019 November 30, 2019
October 1, 2019 October 15, 2019	<b>November 1, 2019</b> <b>November 15, 2019</b>	November 30, 2019 November 30, 2019	December 30, 2019 December 30, 2019
November 1, 2019 November 15, 2019	<b>December 2, 2019</b> <b>December 16, 2019</b>	December 31, 2019 December 31, 2019	January 30, 2020 January 30, 2020
December 2, 2019 December 16, 2019	<b>January 2, 2020</b> <b>January 15, 2020</b>	January 30, 2020 January 30, 2020	February 29, 2020 February 29, 2020
January 2, 2020 January 15, 2020	<b>February 3, 2020</b> <b>February 18, 2020</b>	February 29, 2020 February 29, 2020	March 30, 2020 March 30, 2020

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 [sos.mo.gov/adrules/pubsched](http://sos.mo.gov/adrules/pubsched).

## HOW TO CITE RULES AND RSMO

### RULES

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

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

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

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

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

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

### ***Code and Register on the Internet***

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

The *Code* address is [sos.mo.gov/adrules/csr/csr](http://sos.mo.gov/adrules/csr/csr)

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

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

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

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

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

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 85—Division of Business and Community Services

#### Chapter 5—Historic Preservation Tax Credit Program

#### ORDER TERMINATING EMERGENCY AMENDMENT

By the authority vested in the Department of Economic Development under section 135.487, RSMo 2016, and section 620.010, RSMo Supp. 2019, the department hereby terminates an emergency amendment effective November 29, 2019, as follows:

#### 4 CSR 85-5.010 Overview and Definitions is terminated.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on May 1, 2019 (44 MoReg 9, pages 1229-1230).

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 85—Division of Business and Community Services

#### Chapter 5—Historic Preservation Tax Credit Program

#### ORDER TERMINATING EMERGENCY AMENDMENT

By the authority vested in the Department of Economic Development

under section 135.487, RSMo 2016, and section 620.010, RSMo Supp. 2019, the department hereby terminates an emergency amendment effective November 29, 2019, as follows:

#### 4 CSR 85-5.020 Applications is terminated.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on May 1, 2019 (44 MoReg 9, pages 1230-1232).

## Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

### Division 10—Office of the Director

#### Chapter 4—Coordinated Health Care Services

#### EMERGENCY RESCISSION

**19 CSR 10-4.020 J-1 Visa Waiver Program.** This rule outlined the Department of Health and Senior Services' J-1 visa waiver recommendation process in accordance with section 214(l) of the Immigration and Nationality Act.

*PURPOSE:* This rule is being rescinded because a substantial portion of it is being updated and clarified in a new rule that will replace it.

*EMERGENCY STATEMENT:* This emergency rescission is necessary to protect a compelling government interest because a substantial portion of the rule is being updated and clarified and the rule text has become outdated since it was last amended. DHSS finds that there is a compelling government interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. DHSS believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed September 17, 2019, becomes effective October 1, 2019, and expires March 27, 2020.

*AUTHORITY:* section 191.411.1, RSMo Supp. 2001. Emergency rule filed April 17, 1995, effective April 27, 1995, expired Aug. 24, 1995. Original rule filed April 17, 1995, effective Oct. 30, 1995. Changed to 19 CSR 10-4.020 July 30, 1998. Emergency amendment filed Sept. 19, 2000, effective Sept. 29, 2000, expired March 27, 2001. Amended: Filed Sept. 19, 2000, effective Feb. 28, 2001. Emergency amendment filed Dec. 16, 2002, effective Dec. 26, 2002, expired June 23, 2003. Amended: Filed Dec. 16, 2002, effective May 30, 2003. Emergency rescission filed Sept. 17, 2019, effective Oct. 1, 2019, expires March 27, 2020. A proposed rescission covering this same material is published in this issue of the *Missouri Register*.

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

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

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 10—Office of the Director**  
**Chapter 4—Coordinated Health Care Services**

**EMERGENCY RULE**

**19 CSR 10-4.020 J-1 Visa Waiver Program**

*PURPOSE: This rule outlines the Department of Health and Senior Services' J-1 visa waiver recommendation process in accordance with section 214(l) of the Immigration and Nationality Act.*

*EMERGENCY STATEMENT: The Department of Health and Senior Services ("DHSS") determined that this emergency rule is necessary due to a compelling government interest. This emergency rule is necessary to ensure that there is an equitable, consistent application evaluation process in place on October 1st, which is the date that applications for the Federal J-1 visa waiver recommendation program will start being accepted by the United States Department of State ("DOS"). The J-1 visa waiver program is administered by the DOS, but DHSS is tasked with selecting applications for recommendation that may be ultimately selected by the DOS to serve as physicians in Missouri areas of need, especially rural areas. When an application packet is received, DHSS staff evaluates the application to ensure that all necessary qualifications are met prior to sending the recommendation to DOS. Each state can make thirty recommendations to DOS, but Missouri consistently receives more than thirty applications. In the past, DHSS ordinarily filled the thirty slots in the order that application packets were received. This recently created situations where applicants needed to hand deliver or even mail their applications prior to October 1 in order to compete for one of the available slots. Furthermore, focusing strictly on the date of receipt does not allow DHSS to best serve the state of Missouri. By establishing a priority system, DHSS will be able to evaluate applications in an equitable and consistent way and recommend physicians located in areas of greater need than simply the first thirty to apply.*

*In order to best serve DOS, which is a department of the Federal government, DHSS needs this emergency rule to effectively establish an equitable and consistent application review process for the J-1 Visa recommendation program. This emergency rule must be effective prior to October 1, which is the date that J-1 Visa applications can be submitted to DHSS for review. DHSS finds that there is a compelling government interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. DHSS believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed September 17, 2019, becomes effective October 1, 2019, and expires March 27, 2020.*

(1) The following definitions shall be used in the interpretation of this rule:

(A) Department means the Missouri Department of Health and Senior Services;

(B) Director means the director of the Missouri Department of Health and Senior Services; and

(C) Health professional shortage area (HPSA) means a geographic area, population group, or individual facility designated by the United States Department of Health and Human Services, Health Resources and Services Administration as having a shortage of physicians.

(2) A waiver request must come from a Missouri health care facility on behalf of a J-1 Visa physician. All of the required information and documentation, as required by the United States Department of State,

J-1 Visa Waiver Program, must be submitted in a single application package with the documents presented in the order as prescribed in paragraphs (2)(A)–(H). Waiver requests that do not comply with these requirements will not be considered. The required documents include:

(A) A completed Form DS-3035, J-1 Visa Waiver Recommendation Application;

(B) An employment contract between the physician and the health care facility employing the physician named in the waiver application that includes the following:

1. The name and address of the health care facility;
2. A statement that the physician agrees to begin employment with the employer within 90 days of receiving the waiver;
3. A statement that indicates the physician's specialty;
4. The specific geographical area or areas where the physician will practice medicine;

5. A statement by the physician that he or she agrees to meet the requirements set forth in the Immigration and Nationality Act, Section 214(l);

6. An employment period of at least three years in a designated HPSA; and

7. A full-time schedule of at least 40 hours per week in direct patient care in the HPSA.

(C) Proof that the location where the physician will practice medicine is in a designated HPSA;

(D) Copies of all Forms IAP-66 or DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status;

(E) A copy of the physician's curriculum vitae;

(F) Proof of eligibility for licensure with the Missouri Board of Healing Arts;

(G) A copy of the statement of no objection from the physician's country of nationality or last residence, if the physician is contractually obligated to return to the home country; and

(H) An original and one (1) unbound copy of the entire application package shall be included.

(3) Application packages will be accepted between October 1 and November 30 of each year. Each application package received by the department will be reviewed for completeness. Complete applications are those which include all required documentation, as listed in section (2)(A)–(H). Complete applications will be forwarded for approval by the director or his/her designee in the priority as outlined in section (4)–(6). Upon approval, the department will send the request to the appropriate federal authorities.

(4) The department's J-1 Visa Waiver Program will give priority to those physicians in one (1) of the following specialties: Family Practice, General Practice, General Pediatrics, Obstetrics/Gynecology, or Psychiatry. If the department receives more than 30 completed application packages between October 1 and November 30, application packages will be prioritized in the following order:

(A) Primary Care physicians will be prioritized before other specializations

(B) Primary Care HPSA score of the location of the health care facility employing the physician; higher HPSA scores will be prioritized before lower HPSA scores.

(C) The date the application package was received by the department; applications received earlier will be prioritized before applications received later.

(D) In the event that there are fewer remaining waivers than applicants, and with all of those applicants having equal status in priority, remaining waiver(s) will be recommended by lottery.

(5) In addition to the eligible physicians set forth in section (4), waivers may be recommended for other specialties and subspecialties.

(A) Physicians trained in other specialties may be considered for recommendation for a J-1 Visa Waiver based on the following criteria:

1. Vacant slots must be available; and

2. The specialty physician's application must comply with all other requirements of the J-1 Visa Program.

(B) The number of specialty recommendations in any given program year will be determined by the number of available slots after all application packages for primary care physicians as outlined in section (4) are reviewed. If more application packages are received for specialists than the department has slots available, priority will be determined by Primary Care HPSA score of the location of the health care facility employing the physician; i.e. higher Primary Care HPSA scores will be assigned higher priority.

(6) If the department recommends less than 30 physicians for J-1 Visa Waivers for application packages received between October 1 and November 30 of each year, application packages will continue to be accepted, reviewed for completeness and recommended in the order of the date they are received for any specialty until all available slots are filled.

(A) In the event that there are fewer remaining waivers than applicants, and with all of those applicants having equal status in priority, remaining waiver(s) will be recommended by lottery.

(7) It is the responsibility of the physician and the employer to meet Missouri's licensing and credentialing requirements as delineated by the Missouri Board of Healing Arts.

(8) A physician who is practicing under a J-1 visa in another state who wishes to practice in a HPSA in Missouri and obtain a J-1 visa waiver may do so only under the following conditions:

(A) The physician must complete the J-1 visa waiver application process in Missouri and obtain a Missouri medical license prior to commencing practice;

(B) The physician retains sole responsibility for notifying the employer of the intent to transfer, and payment of any financial penalty caused by a breach of contract, as determined by the employer; and

(C) All other J-1 visa waiver requirements remain in effect.

(9) A physician with a J-1 visa waiver who is practicing in Missouri who wishes to transfer to another HPSA in Missouri may do so under the following conditions:

(A) At least sixty (60) days in advance of the proposed change, the physician must notify the department of the new practice site address, telephone number, site director and the effective date of the proposed change;

(B) The reason for the transfer must be explained in the written notice;

(C) A new J-1 visa waiver employer contract must be submitted to the department prior to approval of the transfer; and

(D) The physician retains sole responsibility for notifying the employer of the intent to transfer and payment of any financial penalty caused by a breach of contract, as determined by the original employer.

(10) The department is not responsible for exceptions to or interpretations of these policies which have occurred without the written approval of the director of the department or his/her designee.

(11) The department is not responsible for any practice arrangements or contractual obligations entered into by the physician prior to approval of a J-1 visa waiver request.

*June 23, 2003. Amended: Filed Dec. 16, 2002, effective May 30, 2003. Emergency rescission and rule filed Sept. 17, 2019, effective Oct. 1, 2019, expires March 27, 2020. A proposed rescission and rule covering this same material is published in this issue of the Missouri Register.*

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

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

*AUTHORITY: section 191.411.1, RSMo Supp. 2001. Emergency rule filed April 17, 1995, effective April 27, 1995, expired Aug. 24, 1995. Original rule filed April 17, 1995, effective Oct. 30, 1995. Changed to 19 CSR 10-4.020 July 30, 1998. Emergency amendment filed Sept. 19, 2000, effective Sept. 29, 2000, expired March 27, 2001. Amended: Filed Sept. 19, 2000, effective Feb. 28, 2001. Emergency amendment filed Dec. 16, 2002, effective Dec. 26, 2002, expired*

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo.

## EXECUTIVE ORDER

19-17

WHEREAS, Executive Order 81-24 adopted a State Training Policy as the official policy of the state; and

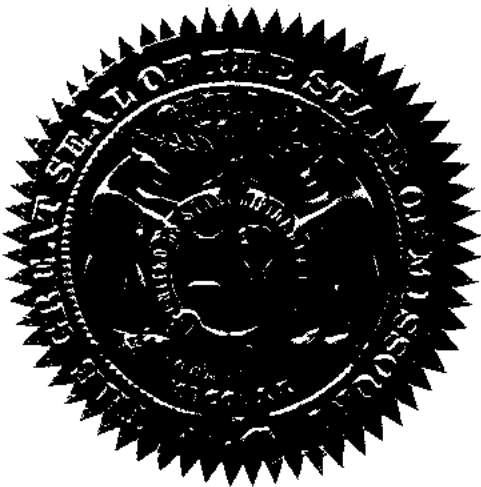
WHEREAS, strategies relating to talent management, hiring, and retention have evolved over time; and

WHEREAS, training and employee development programs require flexibility to meet changing needs; and

WHEREAS, the current State Training Policy does not meet contemporary needs; and

WHEREAS, the current State Training Policy has proven to be difficult to implement and overly burdensome thereby creating undue complication and a lack of clarity for state employees.

NOW THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby rescind Executive Order 81-24 and terminate all authority granted thereunder.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 20<sup>th</sup> day of September, 2019.

MICHAEL L. PARSON  
GOVERNOR

ATTEST:

  
JOHN R. ASHCROFT  
SECRETARY OF STATE



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

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

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

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

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

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

*the institutions of higher learning]. These [guidelines and] standards provide a framework for developing and maintaining leadership effectiveness consistent with the mission and needs of each [department] agency.*

(1) **Definitions.** As used in this rule, unless the context clearly indicates otherwise, the following terms shall mean:

(A) Supervisor, a person *[directly and immediately]* responsible for planning, organizing, directing, coaching, and evaluating the work of employees *[to accomplish a limited function or activity]*;

(B) Manager, a *[person responsible for various general management processes including activities such as general program planning, development and coordination, or the organization, direction and evaluation of major program functions and operations or a combination of these]* supervisor who directs the work of other supervisors, monitors and evaluates the progress of an organization, and makes adjustments in objectives, work plans, schedules, and commitment of resources; and

(C) Executive, *[for the purposes of this rule, Executive shall be defined as senior Level Managers including Division Director, Deputy, Assistant Director, or their equivalent; and] a manager who serves at the top levels of an agency or division.*

*[(D) For purposes of this rule, the terms Supervisor, Manager, and Executive shall include all positions in Uniform Classification and Pay (UCP) agencies which the Division of Personnel finds to involve substantial supervisory or administrative responsibilities, and shall also include comparable positions in non-UCP agencies of the state. The final determination of such comparability shall be made by department directors after careful review of information furnished by the Division of Personnel of the job classifications and approximate number of incumbents considered.]*

(2) *[The professional development of supervisors, managers, and executives is of paramount importance to the successful completion of state business. Therefore, each department in state government shall establish programs, systems, and procedures, as necessary to implement, administer, and enforce the standards for training personnel in the positions as defined in this rule. A department may request technical assistance from the Division of Personnel concerning the implementation and administration of the guidelines and standards. A department also may request formal training courses and other management-supervisory training programs from the Division of Personnel or may establish alternative training programs. Each department shall provide training which it requires without cost to its employees. Departments may reimburse employees for additional job-related training courses in accordance with uniform state policies and procedures issued by the Office of Administration and the department's own policies and procedures which are not in conflict and which provide uniform treatment of employees.] Training Program Policy and Development. Agencies must provide for the development of employees in supervisory positions. Agencies must issue written policies to ensure they—*

(A) Provide training within two (2) months of an employee's initial appointment to a supervisory position that includes, but is not limited, to:

1. Professional Development and Performance Management. The process of developing and implementing a work environment in which employees are assigned responsibility, enabled to perform to the best of their abilities, and held accountable;

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and Division of  
Personnel  
Chapter 6—Management Training**

**PROPOSED AMENDMENT**

**1 CSR 20-6.010 [Management Training] Leadership Development.** The board is amending sections (1)–(4), deleting sections (5)–(14), amending the purpose statement, and amending the rule title.

*PURPOSE: This amendment modernizes this rule to assist state agencies in developing and maintaining effective leaders.*

*PURPOSE: This rule prescribes [guidelines and] standards [as required by section 36.510, RSMo] regarding mandatory training for [persons employed] employees in [management] leadership positions [in] within state agencies [within the executive branch of state government other than elective offices and*

2. **Employment Laws and Legal Issues.** A working understanding of the laws that affect the workplace and the responsibilities supervisors have with respect to those laws;

3. **Diversity.** The practice of creating and maintaining a workplace culture that values trust, respect, and inclusion of all employees; and

4. **Cyber and Workplace Security.** An understanding of current threats and strategies supervisors should use to combat these risks;

(B) Provide training within six (6) months of an employee's initial appointment to a supervisory position that includes, but is not limited to:

1. **Mentoring and Coaching.** The ability to provide an employee with constructive feedback that is information-specific, issue-focused, based on observations, used to improve performance, and accelerates the employee's professional development;

2. **Interviewing.** The ability to interview and hire employment candidates by using best practices and a general understanding of the overall hiring process;

3. **Project Management and Continuous Improvement.** The ability to identify opportunities for improving the efficiency and effectiveness of work, develop project plans to implement changes, and manage results; and

4. **Communication.** The ability to communicate with employees and other stakeholders in a way that is clear, personalized, transparent, empathetic, collaborative, and inspiring;

(C) Maintain knowledge of the above topics on an annual basis;

(D) Institute a structure for supervisors, managers, and executives to dedicate time toward professional development no less than an average of one (1) hour each week; and

(E) Design and implement leadership development programs that are aligned with guidance from the Division of Personnel, foster a government-wide perspective, identify and develop future leaders, and support agency business initiatives and goals. All training efforts shall strive toward best practices for leadership competencies and modern training techniques.

(3) *[For purposes of coordination, the departments shall annually review their projections of training needs for personnel in these positions. The information provided will be used by the Division of Personnel, State Training Advisory Council (STAC), and individual agencies in developing training programs and administering the guidelines and standards contained in this rule.]* **Records of Training Program Participation.** Each agency shall adopt a standardized methodology prescribed by the Division of Personnel for measuring and reporting the efficiency, effectiveness, and outcomes of training efforts. These records shall be submitted to the Division of Personnel either through a common electronic platform or by other means on no less than an annual basis.

(4) *[Employees entering into the positions covered by this rule are required to complete a minimum of forty (40) hours of training within their first year in the position. Thereafter, employees are required to maintain at least sixteen (16) hours of continuing Competency Based Training annually.]* **Coordination and Governance.** To facilitate communication and continuous improvement, each agency shall designate and maintain one (1) talent development manager or executive, and one (1) business manager or executive, who shall participate in an inter-agency consultative group. The group will be led by the Division of Personnel. Meeting frequency and duration will be determined by the Division of Personnel for the inter-agency group in order to achieve the following objectives:

(A) Ensure agency and state-wide talent development programs are current according to the standards prescribed in this rule;

(B) Ensure this rule remains relevant to overall management priorities and aligned with current workforce development needs. The inter-agency group may provide input to the Division of Personnel regarding amending this rule; and

(C) Develop and maintain recommendations to assist agencies in complying with the rule.

*[(15) Training in any of the twenty-four (24) competencies will count toward fulfillment of the training rule requirements. However, to provide a framework for developing a broad spectrum of effectiveness in the areas of supervision, management, organizational development, and leadership, training must be received in more than one (1) competency each year.*

*[(6) In cases of promotion, whether it be from Supervisor to Manager, or Manager to Executive, it shall be at the discretion of the department to determine which of the two (2) thresholds of hours applies: either the sixteen (16)-hour threshold or the forty (40)-hour threshold.*

*[(7) In cases of lateral transfers between agencies or within an agency, it shall be at the discretion of the employing department to determine which of the two (2) thresholds applies: either the sixteen (16)-hour threshold or the forty (40)-hour threshold.*

*[(8) Incumbents in all positions covered in this rule are also required to take a Core Curriculum consisting of performance management, diversity, and prevention of unlawful discrimination. Diversity and prevention of unlawful discrimination programs shall be required of incumbents in all positions covered in this rule, and every effort shall be made to meet these requirements every two (2) years but not to exceed three (3) years. The format and time frames of these programs shall be determined by the departments. STAC will provide guidance to departments regarding the content of these programs as/when needed.*

*[(9) To support its effectiveness, each department shall ensure through its programs, systems and procedures that equal employment opportunity and upward mobility objectives are implemented as part of its supervisory and management career development process. Each individual employee shall have responsibility to effectively use, for personal self-growth and career development, the training opportunities provided.*

*[(10) The twenty-four (24) competencies identified by STAC are as follows:*

*[(A) Accountability: The ability to accept all responsibilities of the job and assigned tasks. Components of this competency can include holding self and others accountable for delivering quality products, assuring effective controls are developed and/or maintained so organizational integrity is maintained, acting decisively to modify activities to better promote customer service and/or quality of programs and pursuing all assignments with the philosophy that the responsible individual must follow through to completion if the project is to be successful;*

*[(B) Computer Literacy: The ability to use provided computer technology to enhance the quality of work and programs. Components of this competency can include possessing sufficient knowledge and comfort concerning computer applications and telecommunications. It also includes the ability to*

*interact effectively with internal and external contacts and to stay informed about technological advances and their potential impact or value to work activities;*

*(C) Creative Thinking: The ability to develop new insights into situations and apply innovative solutions that make improvements. Components of this competency can include the ability to encourage innovation and creativity among others;*

*(D) Customer Service: The ability to remain focused on understanding, anticipating, and responding to the internal and external needs of customers. Components of this competency can include the ability to see customer satisfaction as the number one priority and to maintain sensitivity to the requirements of customers through personal involvement and a continuous drive for feedback;*

*(E) Decisiveness: The ability to make timely and effective decisions with available information or knowledge and within your own authority. Components of this competency can include the ability to take calculated risks even in uncertain situations, perceive the impact/implications of decisions, and assume responsibility for the results of decisions even if unpopular;*

*(F) Financial Management: The ability to administer financial resources in a manner that instills public trust and accomplishes the department's mission. Components of this competency can include overseeing allocation of financial resources, preparing and/or justifying budgets or expenditure requests, and overseeing procurement and contracting procedures;*

*(G) Flexibility: The ability to accept change and to cope with job pressure and stress. Components of this competency can include the ability to adapt behavior and work methods in response to new information, changing conditions, or unexpected obstacles. It includes the ability to actively solicit information and views from others and use the input to make change occur, and adjust to multiple demands and shifting priorities with minimal disruption and stress;*

*(H) Influencing: The ability to persuade others to buy into a course of action. Components of this competency can include the ability to network with key individuals or groups to accomplish goals and promote the organization to others, and to inspire others so as to create enthusiasm and a desire to succeed within others;*

*(I) Integrity: The ability to behave in a professional, fair, and ethical manner toward others and instill mutual trust and confidence. Components of this competency can include the ability to follow through on commitments, act in a manner consistent with values, demonstrate a sense of responsibility and commitment to sound ethics, and encourage high standards of behavior in others;*

*(J) Mediating: The ability to address and resolve conflicts that arise in an effective, impartial manner. Components of this competency can include the ability to take steps to prevent potential situations which could result in unpleasant confrontations, and handle confrontations which arise before they have a negative affect on others and the organization;*

*(K) Mentoring: The ability to coach and challenge others to achieve their potential. Components of this competency can include the ability to serve as a role model for continuous improvement throughout the organization, develop leadership in others by sharing knowledge, experiences and opportunities for growth, and provide timely and specific feedback that reinforces or elicits desired behavior;*

*(L) Negotiating: The ability to build a consensus and accomplish goals through give and take actions. Components of this competency can include the ability to gain cooperation from others to obtain information and identify and understand the interests of others;*

*(M) Political Awareness: The ability to identify internal and external politics that impact the work of the organization. Components of this competency can include the ability to approach each problem situation with a clear perception of organizational and political reality. It includes the ability to build and strengthen internal support bases, and get understanding and support from management;*

*(N) Perceptiveness: The ability to recognize the impact of one's own behavior on others. Components of this competency can include the ability to consider and respond appropriately to the needs, feelings, and capabilities of different people in different situations, show a genuine interest in others and their successes, and treat others with respect and dignity;*

*(O) Planning: The ability to establish comprehensive and realistic plans of action to accomplish activities and evaluate progress. Components of this competency can include the ability to maintain a focus on the planned outcome, exercise good judgment in structuring and organizing work, and monitor progress of activities so discrepancies are identified and corrected;*

*(P) Problem-solving: The ability to define a problem, analyze relevant information, and develop solutions. Components of this competency can include the ability to anticipate potential problems, reduce a situation to its essential elements, simplistic elements, and distinguish between relevant and irrelevant information;*

*(Q) Self-direction: The ability to maintain focus and intensity, and remain optimistic and persistent even under adversity. Components of this competency can include the ability to deal effectively with pressure and recover quickly from setbacks, demonstrate a deep-seated need for achievement, manage your own time effectively and efficiently, seek and use feedback from others, initiate appropriate action without being directed, and maintain confidence in your own ability and ideas;*

*(R) Strategic Thinking: The ability to develop and implement effective strategies that are consistent with the organization's vision and mission. Components of this competency can include the ability to consider a broad range of internal and external factors that may impact the organization, anticipate potential threats or opportunities, and promote change based on the long-range strategic view of the future;*

*(S) Teamwork: The ability to develop and sustain cooperative working relationships. Components of this competency can include the ability to inspire, motivate and guide others toward accomplishment of goals and activities. It includes the ability to encourage collaboration and to promote open communication and collective problem-solving within the group;*

*(T) Technical Knowledge: The ability to demonstrate proficiency in areas of primary responsibility. Components of this competency can include the ability to apply procedures, regulations, and policies to remain current and informed of new and existing issues which may affect work;*

*(U) Verbal Communication: The ability to create and sustain an atmosphere in which timely, quality information flows between self and others, and express facts and ideas in a convincing manner. Components of this competency can include the ability to encourage expression of ideas, keep others informed of relevant facts and issues or decisions, be receptive to new or different viewpoints, accept feedback, tailor a message to the listeners' needs, listen effectively, clarify information, and use available technology to enhance material;*

*(V) Vision: The ability to take a long-term view of the organization's direction and articulate a vision which integrates key program goals, priorities, values, and other factors.*

Components of this competency can include the ability to balance change of continuity, identify and integrate key issues affecting the organization, and promote ownership of the vision in others;

(W) *Written Communications*: The ability to express facts and ideas in writing in a clear, convincing, and organized manner. Components of this competency can include the ability to effectively reflect the position of the organization, review and critique written communication in a constructive and substantive manner, and use available technology to enhance material; and

(X) *Workforce Management*: The ability to administer human resource management principles in a manner which instills public and employee trust, maximizes employee potential and fosters high ethical standards in meeting the organization's mission. Components of this competency may include the ability to assess current and future staffing needs, take an active role in recruiting, and retaining staff. It also includes the need to clarify roles and responsibilities, provide clear direction, delegate and empower staff to accomplish assignments, support programs and activities that deal with employee well-being such as safety, health, and family life. It allows for employee growth and it requires that you assess employee performance, give timely feedback, take appropriate corrective/disciplinary actions when other means have not been successful, and value cultural diversity, and other differences. Lastly, it requires that you commit resources necessary to develop and train employees for long-term employment based on needs.

(11) *Competencies as identified in this rule will align with the current performance management (appraisal) system prescribed by the Division of Personnel. STAC will be responsible for determining this correlation and providing departments with this information.*

(12) *The Division of Personnel, within available resources and upon request from a department, shall provide technical assistance concerning the administration of the guidelines for mandatory management training as set out in this rule. The Division of Personnel shall also develop and present or otherwise make available formal training courses and other management development programs which address competencies identified in this rule. No department or the Division of Personnel shall be responsible to provide training courses that address all the competencies identified in this rule.*

(13) *At least every five (5) years, STAC will make recommendations to the Personnel Advisory Board regarding the status of the rule, specifically: additions, deletions, and substitutions to the provisions of the rule. The results of this review may change the Core Curriculum and competencies listed in this rule. The departments will change their training projections and programs according to the results.*

(14) *Each department shall require employees in positions covered by this rule to successfully demonstrate an ongoing ability to plan, organize, direct, coordinate, and evaluate the work activities for which they are responsible and to motivate assigned staff to accomplish organizational objectives. Should the department determine that an individual incumbent in a covered position requires training in a competency not identified in this rule, it is the responsibility of the department to provide that training.]*

**AUTHORITY:** sections 36.070 and 36.510, RSMo [2000] *Supp.* 2019. Original rule filed Oct. 7, 1985, effective Jan. 12, 1986. Amended: Filed Nov. 15, 2000, effective May 30, 2001. Amended:

Filed June 1, 2009, effective Nov. 30, 2009. Amended: Filed Oct. 1, 2019.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Casey Osterkamp, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, December 10, 2019, which is thirty-nine (39) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, December 10, 2019, at the Harry S Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

## Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

### PROPOSED AMENDMENT

**2 CSR 70-17.010 Definitions.** The department is amending the entire rule.

**PURPOSE:** This amendment updates the list of definitions for Chapter 17.

**PURPOSE:** This rule lists definitions for Chapter 17.

The terms defined in sections 195.010 and 195.740, RSMo, in addition to other relative terms pertaining to the industrial hemp [agricultural pilot] program will be applied for use in 2 CSR 70-17.010 to [2 CSR 70-17.120] **2 CSR 70-17.130.**

*[(1) Agricultural Hemp Seed Production Permit—permit issued by the Missouri Department of Agriculture to registered growers and handlers engaged in the production of agricultural hemp seed that:*

*(A) Is sold or intended to be sold to registered growers for planting; or*

*(B) Remains capable of germination.*

*(2) Applicant—a person, joint venture, or cooperative who submits an application for registration as a grower and/or handler.*

*(3) CBD—cannabidiol.*

*(4) Certificate of analysis—a certificate from an independent testing laboratory describing the results of the laboratory's testing of a sample.*

*(5) Certified agricultural hemp seed—seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of any country, state, territory, or possession of the United States to officially certify seed and that has standards and procedures approved by the Association of Official Seed Certifying Agencies (AOSCA) to assure the genetic purity and identity of the seed certified.*

*(6) Cooperative—organization that is owned and run jointly*

by its members, who share the profits or benefits.

(7) **Delta-9 THC**—delta-9 tetrahydrocannabinol.

(8) **Department**—The Director of the Department of Agriculture and all department employees.

(9) **Destroy/destruction**—rendered unusable by burning or incorporating with other materials in a manner approved by the Missouri Department of Agriculture.

(10) **Grower registration**—registration issued by the Missouri Department of Agriculture to applicants for production and cultivation of industrial hemp.

(11) **Handler registration**—registration issued by the Missouri Department of Agriculture to applicants for processing industrial hemp into publicly marketable hemp products.

(12) **Harvest**—the termination of the cultivation process.

(13) **Hemp extract**—an extract from a *cannabis sativa L.* plant or a mixture or preparation containing *cannabis sativa L.* plant material that is composed of no more than three-tenths of one percent (0.3%) delta-9 THC on a dry weight basis.

(14) **Independent testing laboratory**—a laboratory:

(A) With respect to which no person having a direct or indirect interest in the laboratory also has a direct or indirect interest in a business that:

1. Cultivates, processes, dispenses, or sells industrial hemp or marijuana;

2. Processes or sells hemp extract, CBD, or other similar substance in another state or jurisdiction; and

(B) That is accredited as a testing laboratory to International Organization for Standardization (ISO/IEC) 17025 by a third party accrediting body such as the American Association for Laboratory Accreditation (A2LA) or Assured Calibration and Laboratory Accreditation Select Services (ACLASS). After the two (2) year period from the original effective date of this rule, the laboratory must also have the industrial hemp testing they perform on their scope of accreditation.

(15) **Industrial Hemp**—as defined in section 195.010 (24), RSMo.

(16) **Joint venture**—a commercial enterprise undertaken jointly by two (2) or more persons that otherwise retain their distinct identities.

(17) **Person**—includes, but is not limited to, a natural person, sole proprietorship, partnership, limited liability corporation, limited liability partnership, company, corporation, association, government agency or governmental subdivision, business, or non-profit organization.

(18) **Plot of Land**—means a contiguous parcel of land registered with the department on which a registrant plans to cultivate industrial hemp.

(19) **Propagule**—any viable nonseed plant material used to cultivate industrial hemp, including transplants, cuttings, and/or clones.

(20) **Publicly marketable hemp product**—any industrial hemp product that does not include any living hemp plants, viable seeds, viable roots, viable leaf materials, or viable floral

materials, and contains no material with a delta-9 THC concentration exceeding three-tenths of one percent (0.3%) on a dry weight basis.]

(1) **Agent**—any family member, employee, contracted employee, or farmhand of a registered producer or permit holder.

(2) **Agricultural hemp propagule (propagule)**—as defined in subdivision 1 of section 195.740, RSMo.

(3) **Agricultural hemp propagule and seed permit (permit)**—permit issued by the Missouri Department of Agriculture to persons authorized to sell, distribute, or offer for sale any viable industrial hemp propagules or viable seeds.

(4) **Agricultural hemp seed (seed)**—as defined in subdivision 2 of section 195.740, RSMo.

(5) **Applicant**—a natural person authorized to sign for a person, who submits an application for a producer registration or an agricultural hemp propagule and seed permit so that they may produce, sell, distribute, or offer for sale any viable industrial hemp.

(6) **Certificate of analysis**—a certificate from an independent testing laboratory describing the results of the laboratory's testing of a sample.

(7) **Delta-9 THC**—delta-9 tetrahydrocannabinol measured using postdecarboxylation or other similarly reliable methods approved by the United States Department of Agriculture (USDA).

(8) **Department**—the Missouri Department of Agriculture.

(9) **Destroy/destruction**—rendered unusable by burning, incorporating with other materials, or other manner approved by the Missouri Department of Agriculture.

(10) **Harvest**—the termination of viable industrial hemp, the collection of viable seed, or the taking of cuttings for propagation.

(11) **Independent testing laboratory**—a laboratory—

(A) With respect to which no person having a direct or indirect interest in the laboratory also has a direct or indirect interest in a business that produces, processes, dispenses, or sells industrial hemp or marijuana; and

(B) That is accredited as a testing laboratory to International Organization for Standardization (ISO/IEC) 17025 by a third-party accrediting body such as the American Association for Laboratory Accreditation (A2LA), ANSI-ASQ National Accreditation Board (ANAB), or American Society of Crime Laboratory Directors (ASCLD). After the two- (2-) year period from the effective date of this rule, the laboratory must also have the cannabis testing they perform on their scope of accreditation.

(12) **Indoor cultivation facility**—any greenhouse or enclosed building or structure capable of continuous cultivation throughout the year that is not a residential building, a vehicle, or designed for use as a dwelling.

(13) **Industrial hemp**—as defined in subdivision 24 of section 195.010, RSMo.

(14) **Parcel of land**—land on which an applicant, registered producer, or permit holder plans to produce, sell, distribute, or offer for sale any viable industrial hemp.

(15) **Permit holder**—any person who holds a valid Agricultural Hemp Propagule and Seed Permit.

(16) **Person**—includes, but is not limited to, a natural person, sole proprietorship, partnership, limited liability corporation, limited liability partnership, company, association, government agency, governmental subdivision, business, or non-profit organization.

(17) **Producer registration (registration)**—registration issued by the Missouri Department of Agriculture to persons authorized to produce viable industrial hemp.

(18) **Publicly marketable product**—any industrial hemp product that does not include any living hemp plants, viable seeds, viable roots, viable leaf materials, or viable floral materials, and contains no material with a delta-9 THC concentration exceeding three-tenths of one percent (0.3%) on a dry weight basis.

(19) **Registered producer**—any person who holds a valid producer registration for the production of industrial hemp.

(20) **Variety**—a group of plants or an individual plant that exhibits distinct observable physical characteristics or has a distinct genetic composition. This includes the terms “cultivar” and “strain.”

(21) **Viable industrial hemp**—plant material capable of living or growing, including agricultural hemp seeds and agricultural hemp propagules.

*AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019.*

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at [Agriculture.Mo.Gov/proposed-rules/](http://Agriculture.Mo.Gov/proposed-rules/). 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 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

### PROPOSED AMENDMENT

**2 CSR 70-17.020** [*Industrial Hemp Pilot Program Registration Application (Grower and Handler Application Requirements, Selection Process, Application Period, and Fees)*] **Registration and Permit Application Requirements.** The department is amending the title, purpose, and entire rule.

*PURPOSE: This amendment updates the applicant requirements for a producer registration and agricultural hemp propagule and seed permit.*

*PURPOSE: This rule explains the [grower and handler application requirements, selection process, application period, and fees] requirements for producer registrations and agricultural hemp propagule and seed permits.*

*[(1) Each applicant for an Industrial Hemp Agricultural Pilot*

*Program Grower and/or Handler Registration must complete and submit an application for registration on a form provided by the department. Applications must be postmarked by the deadline for closing the application period. Notice of the open application period will be posted on the department’s website.*

*(2) Growers engaged in the production and cultivation of agricultural hemp seed shall obtain an agricultural hemp seed production permit.*

*(3) Handlers engaged in the processing and/or distribution of agricultural hemp seed to registered growers shall obtain an agricultural hemp seed production permit.*

*(4) Growers and/or handlers must apply for separate registrations for each plot of land, location, facility, or establishment where industrial hemp will be grown or handled.*

*(5) Completed applications must provide the following information:*

*(A) The complete legal name, mailing address, email, and phone number of the applicant;*

*(B) The applicant’s state of residence or state in which the entity is domiciled;*

*(C) Type of business entity: person, cooperative, or joint venture;*

*(D) Type of registration: grower or handler;*

*(E) Request for Agricultural Hemp Seed Production Permit, if applicable;*

*(F) Legal description, street address, and Global Positioning System (GPS) coordinates for the plot of land used for cultivating industrial hemp and the industrial hemp storage facility location, if applicable;*

*(G) Legal description, street address, and Global Positioning System (GPS) coordinates for the industrial hemp processing facility and industrial hemp storage facility location, if applicable;*

*(H) An industrial hemp production, research, and marketing plan;*

*(I) The application for a grower registration must include submission of:*

*1. Any evidence of row crop, nursery, or greenhouse experience for the department’s consideration, such as a copy of an IRS Schedule F federal tax form for at least one (1) of the past three (3) years, the applicant’s farm serial number (FSN) issued by the United States Department of Agriculture-Farm Service Agency, or evidence of agricultural education;*

*2. A detailed map of the plot of land on which the applicant plans to grow industrial hemp, showing the boundaries and dimensions of the growing area in acres and the location of different varieties within the growing area;*

*3. Requested number of acres for production and cultivation of industrial hemp; and*

*4. Documentation verifying any non-certified agricultural hemp seed to be planted is enrolled in the Missouri Crop Improvement Association’s certification program.*

*(6) Applications must be submitted along with a nonrefundable application fee of one hundred dollars (\$100) per type of registration, made payable to the Missouri Department of Agriculture. Institutions of higher education are exempt from the application fee.*

*(7) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person, cooperative, or joint venture shall not be*

a participant in the department's pilot program until the applicant has executed a grower registration agreement, paid all registration fees, and received from the department an issued registration.

(8) The department will select applicants for a grower registration by scoring the following factors:

(A) Application for registration;

(B) Applicant's row crop, nursery, or greenhouse experience;

(C) Detailed map of the plot of land on which industrial hemp will be cultivated; and

(D) Applicant's industrial hemp production, research, and marketing plan.

In the event there is a tie between applicants for a grower registration, the department will select the applicant that received the highest score on row crop, nursery, or greenhouse experience. If a tie score still remains, the department will select the applicant that received the highest score on the industrial hemp production, research, and marketing plan.]

(1) Persons must obtain a registration or permit from the department for the following:

(A) A producer registration in order to produce viable industrial hemp; and

(B) An agricultural hemp propagule and seed permit in order to sell, distribute, or offer for sale any viable industrial hemp propagules or viable industrial hemp seed.

(2) Each applicant for a producer registration or agricultural hemp propagule and seed permit must complete and submit an application on a form provided by the department.

(3) Persons must apply for a separate registration or permit for each noncontiguous parcel of land where viable industrial hemp will be produced, sold, distributed, or offered for sale.

(4) No application shall include any parcel of land not owned or rented by the person.

(5) The applicant or person must meet the requirements of a state and federal fingerprint criminal history background check listed in 2 CSR 70-17.030.

(6) A complete producer registration application must provide the following:

(A) The complete legal name, mailing address, email, and phone number of the applicant and person;

(B) The person's state of residence or domicile;

(C) Type of business entity, if applicable;

(D) Legal description, street address, and Global Positioning System (GPS) coordinates for the parcel(s) of land used for producing industrial hemp; and

(E) A detailed map of the parcel(s) of land on which the person plans to produce industrial hemp, which includes the following information:

1. The boundaries, dimensions, and GPS coordinates of each field or indoor cultivation facility that may be used for industrial hemp production; and

2. Planned number of acres and/or square footage for production of industrial hemp; and

3. Location of buildings or facilities that viable industrial hemp will be held.

(7) A complete agricultural hemp propagule and seed permit application must provide the following:

(A) The complete legal name, mailing address, email, and

phone number of the applicant and person;

(B) The person's state of residence or domicile;

(C) Type of business entity, if applicable;

(D) Legal description, street address, and Global Positioning System (GPS) coordinates for the parcel(s) of land used to sell, distribute, or offer for sale viable industrial hemp; and

(E) A detailed map of the parcel(s) of land on which the applicant plans to sell, distribute and/or offer for sale viable industrial hemp, including the location of buildings or facilities.

(8) Each registration or permit application must be submitted along with a nonrefundable fee payable to the Missouri Department of Agriculture as established in 2 CSR 70-17.070.

(9) Applications will not be processed until all requirements are received. Incomplete applications will expire sixty (60) days from the time the department notifies the applicant of missing documentation. If an application expires, the applicant must resubmit all documentation and associated fees.

(10) The department shall notify applicants by letter or email whether the application has been denied or approved.

*AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019.*

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

### PROPOSED AMENDMENT

**2 CSR 70-17.030 State and Federal Fingerprint Criminal History Background Check (When Required, Process, and Fees).** The department is amending the title, the purpose, sections (1) and (2), deleting section (3), and renumbering thereafter.

*PURPOSE: This amendment updates requirements for the State and Federal Fingerprint Criminal History Background check.*

*PURPOSE: This rule explains the state and federal fingerprint criminal history background check requirements.*

*[(1) Each applicant for a grower and/or handler registration must complete and pay for a state and federal criminal background check for initial registration and renewal.]*

(1) Each applicant must complete and pay for a state and federal fingerprint criminal background check for the following, if applicable:

(A) A producer registration application;



- (B) A producer registration renewal every three (3) years;  
 (C) An agricultural hemp propagule and seed permit application; and  
 (D) An agricultural hemp propagule and seed permit renewal every three (3) years.

(2) All required state and federal **fingerprint** criminal background checks shall be *[delivered]* provided to the department *[with the application for registration]* through the Missouri State Highway Patrol automated system.

*[(3) All required state and federal criminal background checks must be submitted along with the application for registration renewal.]*

*[(4)](3) Failure to submit all required state and federal **fingerprint** criminal background checks *[with the application or the request to renew the registration]* shall be grounds for denial *[of registration]*.*

*AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019.*

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE  
 Division 70—Plant Industries  
 Chapter 17—Industrial Hemp**

**PROPOSED RESCISSION**

**2 CSR 70-17.040 Industrial Hemp Pilot Program Grower and Handler Registration Agreement.** This rule explained the grower and handler registration agreement requirements.

*PURPOSE: This rule is being rescinded as the requirements set forth in the statute were removed.*

*AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018, effective July 30, 2019. Rescinded: Filed Sept. 30, 2019.*

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at*

*Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE  
 Division 70—Plant Industries  
 Chapter 17—Industrial Hemp**

**PROPOSED AMENDMENT**

**2 CSR 70-17.050 Exemptions and Stipulations for Registered [Growers and Handlers] Producers and Agricultural Hemp Propagule and Seed Permit Holders.** The department is adding new sections (1), (2), (4)–(10), amending the title, the purpose, section (3), and deleting section (1).

*PURPOSE: This amendment updates and clarifies provisions for the rule.*

*PURPOSE: This rule explains exemptions and stipulations for registered [growers and handlers] producers and agricultural hemp propagule and seed permit holders.*

*[(1) No application or site modification request shall include any plot of land that is not owned or rented by the applicant, registered grower, or registered handler.]*

**(1) No person shall obtain, possess, produce, distribute, sell, or offer for sale any viable industrial hemp in Missouri, including viable industrial hemp propagules or viable industrial hemp seed, without a valid producer registration or permit.**

**(2) Registrations and permits are effective on the date of issuance by the department and shall expire three (3) years from the last day of the month in which the registration or permit was issued. To renew a registration or permit at the end of the three- (3-) year period, registered producers and permit holders are required to satisfy all application requirements as established in 2 CSR 70-17.020, including completion of a state and federal fingerprint criminal background check.**

*[(2)](3) Registered [growers and registered handlers] producers must also obtain an agricultural hemp propagule and seed permit to sell, distribute, or offer for sale any viable [agricultural hemp] propagules or viable seed.*

**(4) Permit holders must also obtain a producer registration to produce propagules or seed.**

**(5) All registered producers and permit holders are subject to inspection, investigation, and sampling to verify compliance with the applicable laws, regulations, and guidelines.**

**(6) Any registered producer or permit holder may request to transfer a valid registration or permit to another person by submitting the following:**

**(A) A transfer request form; and**

**(B) A completed state and federal fingerprint criminal background check for the transferee.**

**(7) The registered producer or permit holder shall destroy, without compensation, any industrial hemp that:**

**(A) Is located in an area not identified on the application; or**

**(B) Tests out of compliance in accordance with 2 CSR 70-17.100.**

**(8) Persons shall hold the department harmless, release the**



department from liability, and waive the right to sue the department for any claims arising from matters associated with industrial hemp.

(9) Any registered producer, permit holder, or their agent, shall have the following in their possession when transporting viable industrial hemp within the state:

- (A) A copy of their valid producer registration or agricultural hemp propagule and seed permit;
- (B) A certificate of analysis for the variety in transport; or
- (C) A bill of lading, if applicable.

(10) Third-party commercial transportation of viable industrial hemp is exempt from registration and permit requirements.

*AUTHORITY:* section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019.

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at [Agriculture.Mo.Gov/proposed-rules/](http://Agriculture.Mo.Gov/proposed-rules/). 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 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

### PROPOSED RESCISSION

**2 CSR 70-17.060 Modification of Grower and Handler Applications and Fees.** This rule explained the process of modifying grower and handler applications and the associated fees.

*PURPOSE:* This rule is being rescinded as the requirements are no longer needed.

*AUTHORITY:* section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018, effective July 30, 2019. Rescinded: Filed Sept. 30, 2019.

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at [Agriculture.Mo.Gov/proposed-rules/](http://Agriculture.Mo.Gov/proposed-rules/). 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 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

### PROPOSED AMENDMENT

**2 CSR 70-17.070 Industrial Hemp Registration Fees** [(Renewal of Registrations) and Other Fees] and Permit Fees. The department is amending the title, the purpose and the entire rule.

*PURPOSE:* This amendment updates the purpose and fees associated with the industrial hemp program.

*PURPOSE:* This rule explains registration, permit, and other related fees.

[(1) Upon the department's selection of the application, the applicant will be provided an Industrial Hemp Pilot Program Grower and Handler Registration Agreement to be signed and submitted along with the applicable registration fees. Institutions of higher education are exempt from these fees.

(A) Grower registration fee: five hundred dollars (\$500) plus—

1. Forty-five dollars (\$45) per acre to be planted.

(B) Handler registration fee: five hundred dollars (\$500) plus—

1. For processing the grain component of industrial hemp: five hundred dollars (\$500);

2. For processing the fiber component of industrial hemp: five hundred dollars (\$500);

3. For processing the leaf and/or floral material component of industrial hemp (hemp extract and/or CBD): three thousand dollars (\$3,000); or

4. If processing more than one (1) component, the handler shall pay the fee associated with each component.

(C) Agricultural Hemp Seed Production Permit fee: five hundred dollars (\$500).

(2) Registered growers must pay an annual renewal fee of forty-five dollars (\$45) per acre for the second and third year of registration.

(3) Registered handlers must pay an annual renewal fee equal to the applicable processing fees listed in this section in (1)(B)1. through 4. for the second and third year of registration.

(4) Agricultural hemp seed production permittees must pay an annual renewal fee of five hundred dollars (\$500).

(5) Registrations are effective on the date originally issued by the department and will expire three (3) years after the date of issuance.

(6) Applications for registration renewal must be received no more than one hundred twenty (120) days and no less than thirty (30) days prior to the expiration of the three- (3-) year registration. Registered growers and handlers shall be required to satisfy all requirements for registration as if never before registered, including completion of an acceptable state and federal criminal background check. Registered growers will be considered first for subsequent three- (3-) year registration renewals.

(7) If unaccounted acres are available for production and cultivation, the department will announce an open application period on the department's website. During this period, the department will consider new applications and registration

*modifications for the acreage.*

*(8) When destruction is required, the department will assess to the registered grower an appropriate destruction certification fee. Such fee will be commensurate with the Missouri Highway Patrol or local law enforcement agencies' costs for certifying crop destruction. Such fee shall be paid within thirty (30) days of receiving an invoice.]*

**(1) The applicant, registered producer, or permit holder must pay all fees as established in applicable laws and regulations. All fees are nonrefundable.**

**(2) Applicants must submit a seven hundred fifty dollar (\$750) fee with each registration or permit application.**

**(3) Registered producers and permit holders must pay an annual fee of seven hundred fifty dollars (\$750) for the second and third year of registration. Annual fees are due by the end of the month of the anniversary date of the initial approval.**

**(4) If fees are not paid by the due date, a late fee of twenty-five percent (25%) will be assessed for fees that are up to thirty (30) days past due. A late fee of fifty percent (50%) will be assessed for fees thirty-one (31) to sixty (60) days past due. Fees not paid within sixty (60) days of the due date will result in revocation of the producer registration or permit.**

**(5) The department may invoice registered producers and permit holders for all applicable destruction certification expenses. Such fee will be commensurate with the Missouri State Highway Patrol or local law enforcement agencies' costs for certifying crop destruction. The destruction certification fee shall be due thirty (30) days after the invoice date.**

**(6) The department may invoice registered producers and permit holders for all related inspection, investigation, and sampling costs, including mileage charged at the federal mileage rate, and all related laboratory analysis costs.**

*AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019.*

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

*PRIVATE COST: This proposed amendment will cost private entities an estimated three hundred fifty thousand dollars (\$350,000) per year 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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at [Agriculture.Mo.Gov/proposed-rules/](http://Agriculture.Mo.Gov/proposed-rules/). To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE  
PRIVATE COST**

- I. Department Title: 2 – Department of Agriculture  
Division Title: 70 – Plant Industries  
Chapter Title: 17 – Industrial Hemp**

<b>Rule Number and Title:</b>	2 CSR 70-17.070 Industrial Hemp Registration and Permit Fees
<b>Type of Rulemaking:</b>	Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
500	Registered producers & Permit holders	\$350,000/FY

**III. WORKSHEET**

500 Registered producers & Permit holders x \$750/year = \$350,000/year

**IV. ASSUMPTIONS**

It is assumed that 500 persons will apply for or maintain a producer registration or agricultural hemp propagule and seed permit. The initial registration/permit fee and annual maintenance fee are established at \$750.

**Title 2—DEPARTMENT OF AGRICULTURE**  
**Division 70—Plant Industries**  
**Chapter 17—Industrial Hemp**

**PROPOSED AMENDMENT**

**2 CSR 70-17.080 Site Access for Missouri Department of Agriculture (MDA) and Law Enforcement Inspection and Sampling.** The department is amending sections (1) and (2), deleting section (3), and adding a new section (3).

*PURPOSE: This amendment clarifies site access requirements in rule.*

*PURPOSE: This rule explains the site access requirements.*

(1) The department will provide information to the Missouri State Highway Patrol about the registered **[grower and handler] producer or permit holder's** operation as it relates to the **[growing, cultivation, processing, and storage of] production, sale, distribution, or offer for sale of viable** industrial hemp at locations as indicated on the application **[for registration]**.

(2) Registered **[grower and handler] producer or permit holders** shall have no reasonable expectation of privacy from the department or law enforcement, with respect to the **[plot] parcel** of land where **[agricultural hemp seeds, industrial hemp plants, or industrial hemp plant materials are located as indicated on the application for registration] viable industrial hemp is produced, sold, distributed, or offered for sale.**

*[(3) A registered grower and handler, whether present or not, must permit the department or a representative of any law enforcement agency to enter the plot of land, with or without cause, where agricultural hemp seeds, industrial hemp plants, or industrial hemp plant materials are located or cultivated and any land or structure where agricultural hemp seeds, industrial hemp plants, or industrial hemp plant materials are processed, stored, or held for sale, with or without cause.]*

**(3) A registered producer or permit holder, whether present or not, must allow the department or a representative of any law enforcement agency to enter the parcel of land or structure, with or without cause, where viable industrial hemp is produced, sold, distributed, or offered for sale.**

*AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019.*

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE**  
**Division 70—Plant Industries**  
**Chapter 17—Industrial Hemp**

**PROPOSED RESCISSION**

**2 CSR 70-17.090 Inspection of Site, Crop, and Sampling Requirements for Laboratory Analysis (Responsibilities of Registered Grower and Handler).** This rule explained site inspections, crop inspections, and sampling requirements.

*PURPOSE: This rule is being rescinded as the requirements are clarified in other rules within this chapter.*

*AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018, effective July 30, 2019. Rescinded: Filed Sept. 30, 2019.*

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE**  
**Division 70—Plant Industries**  
**Chapter 17—Industrial Hemp**

**PROPOSED AMENDMENT**

**2 CSR 70-17.100 Sampling Requirements and Results of Analysis.** The department is amending the title, purpose, sections (1) and (6), deleting sections (2)–(5) and (7), and adding new sections (2)–(5) and (7)–(10).

*PURPOSE: This amendment updates sampling requirements and the results of analysis.*

*PURPOSE: This rule explains the sampling requirements and results of analysis for the program.*

(1) All industrial hemp varieties **[planted and cultivated] produced** within a **[plot] parcel** of land must be sampled **in accordance with the department's sampling protocol** to ensure compliance with **[the]** applicable laws and regulations.

*[(2) Registered growers must collect samples in accordance with the department's sampling protocol within fifteen (15) days prior to harvest.]*

*[(3) Each variety of industrial hemp must be analyzed by an independent testing laboratory for analysis for delta-9 THC concentration on a dry weight basis.]*

*[(4) Sampled plant material from multiple varieties shall not be commingled.]*

*[(5) One (1) duplicate composite sample of each variety of*

*industrial hemp must be collected and retained by the registered grower in accordance with established department protocols, to be analyzed if the original composite sample certificate of analysis reports greater than three-tenths of one percent (0.3%) delta-9 THC concentration on a dry weight basis.]*

**(2) Sampled plant material from multiple varieties shall not be commingled.**

**(3) Registered producers must collect samples within fifteen (15) days prior to harvest or taking cuttings of parent plants.**

**(4) Two (2) composite samples of each variety must be collected.**

**(A) One (1) composite sample of each variety must be sent to an independent testing laboratory for analysis of delta-9 THC concentration on a dry weight basis, and the remaining one (1) composite sample of each variety must be retained in accordance with established department protocols.**

**(5) If the composite sample initially sent for analysis has a delta-9 THC concentration on a dry weight basis in an amount that—**

**(A) Is less than three tenths of one percent (0.3%), the industrial hemp may be sold as a publicly marketable product;**

**(B) Exceeds three-tenths of one percent (0.3%) but is less than or equal to seven-tenths of one percent (0.7%), the retained composite sample must be sent for analysis, unless the producer elects to destroy the variety per department protocol. If the second composite sample's analysis reports a delta-9 THC concentration of less than three-tenths of one percent (0.3%), the producer will submit the certificate of analysis to the department and the industrial hemp may be sold as a publicly marketable product. If the analysis reports a delta-9 THC concentration of greater than three-tenths of one percent (0.3%), the variety is no longer considered industrial hemp and must be destroyed by the producer per department protocol; or**

**(C) Exceeds seven-tenths of one percent (0.7%), the variety is no longer considered industrial hemp and must be destroyed by the producer per department protocol.**

**(6) Registered [growers] producers must maintain a copy of each certificate of analysis as part of the Industrial Hemp Plant Monitoring System for a period of three (3) years from date of analysis.**

*[(A) Registered growers must provide to a registered handler or processor a copy of each certificate of analysis for each variety of industrial hemp distributed or sold.]*

*[(B)](7) Registered [growers] producers must submit to the department, within three (3) business days of receipt, copies of all certificates of analysis showing a delta-9 THC concentration on a dry weight basis greater than three-tenths of one percent (0.3%) as evidence that the industrial hemp variety is not in compliance with applicable laws and regulations. [Upon receipt of each certificate of analysis showing noncompliance, the registered grower will submit the retained duplicate composite sample for that variety from the same plot of land to be immediately delivered to the independent testing laboratory for analysis.]*

*[(C) Registered growers must submit to the department, within three (3) business days of receipt, each duplicate composite certificate of analysis. The department will issue to the registered grower an order for destruction for the specific industrial hemp testing out of compliance. Destruction must be completed by the registered grower within ten (10) days of receipt of the department's order for destruction.*

*1. The registered grower must maintain a destruction report.*

*2. The registered grower must submit a copy of the*

*destruction report to the department within three (3) days of crop destruction and the department will notify the Missouri Highway Patrol and local law enforcement of crop destruction.*

*(7) Registered growers are financially responsible for all costs associated with contracting laboratory services, sample collection, delivery of samples to the independent testing laboratory, and laboratory analysis.]*

**(8) The department will issue to the registered producer or permit holder an order of destruction for the specific industrial hemp variety testing out of compliance. Destruction must be completed by the registered producer or permit holder within fifteen (15) days of receipt of the department's order of destruction. The Missouri State Highway Patrol or local law enforcement agency must complete certification of crop destruction. In addition:**

**(A) The registered producer or permit holder must maintain a destruction report; and**

**(B) The registered producer or permit holder must submit a copy of the destruction report to the department within three (3) business days of crop destruction.**

**(9) All harvested industrial hemp awaiting a certificate of analysis shall be stored by the registered producer or permit holder and shall not be processed or sold until test results are obtained.**

**(10) Registered producers or permit holders are financially responsible for all costs associated with contracting laboratory services, sample collection, delivery of samples to the independent testing laboratory, and laboratory analysis.**

*AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019.*

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at [Agriculture.Mo.Gov/proposed-rules/](http://Agriculture.Mo.Gov/proposed-rules/). 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 2—DEPARTMENT OF AGRICULTURE  
Division 70—Plant Industries  
Chapter 17—Industrial Hemp**

**PROPOSED AMENDMENT**

**2 CSR 70-17.110 Industrial Hemp Plant Monitoring System** [(Records, Reports, and Data Maintained for Cultivating, Sampling, Certificates of Analysis, Storing, Processing, Destruction, and Sale or Distribution of Industrial Hemp)] **Requirements.** The department is amending the title, purpose, sections (1)–(3), and adding section (4).

*PURPOSE: This amendment updates requirements for the industrial hemp plant monitoring system.*

**PURPOSE:** This rule explains the industrial hemp plant monitoring system requirements for viable industrial hemp.

(1) All registered [growers and handlers]producers and permit holders must keep and maintain an Industrial Hemp Monitoring System for all records, reports, data, and certificates of analysis relating to the planting, cultivation, harvest, sampling, processing, storage, destruction, sale, or distribution of viable industrial hemp. All records, reports, data, and certificates of analysis must be kept for a period of three (3) years from the date of each activity.

(2) All hemp monitoring system data shall be available for inspection and auditing [at a reasonable time] during regular department business hours, or upon request in writing. The department shall be furnished complete copies of these records within ten (10) business days of receipt of request.

(3) [Contents of an Industrial Hemp Plant Monitoring System include] **Registered producers must maintain the following:**

(A) Planting Reports—

1. Registered [growers] producers must record, within ten (10) days of planting, a planting report, including the replanting of seeds or propagules on a [plot] parcel of land. For each industrial hemp variety planted, the planting report shall contain:

A. GPS coordinates for the [plot] parcel of land;

B. The number of acres or square footage of each variety planted;

C. The GPS coordinates for each variety planted; and

D. The seed bag label or tag, bulk seed certificate, [and/]or [complete variety name] bill of lading/invoice of propagule(s).

(B) Sample Analysis Reports—

1. Certificates of analysis [must be kept and maintained] for all industrial hemp varieties sampled and tested by an independent testing laboratory[. Certificates of analysis] must be kept [and maintained] for a period of three (3) years from date of analysis.

[2. Documentation of the registered grower notification to the department for all certificates of analysis showing a delta-9 THC concentration in excess of three-tenths of one percent (0.3%) on a dry weight basis.

3. Documentation verifying that copies of certificates of analysis were provided for each industrial hemp variety distributed or sold to a registered handler or processor.]

(C) Destruction Reports—

1. Within three (3) days of crop destruction the registered [grower] producer must produce a destruction report, including:

A. Copy of the department's order of destruction or a written statement justifying the destruction of an industrial hemp crop and a copy of the department's authorization to destroy;

B. [Number of acres/Amount of each variety destroyed;

C. Date of destruction; and

D. Method of destruction.

(D) Harvest Reports—

1. Within ten (10) days of harvest, the registered [grower] producer must produce [for each industrial hemp variety harvested,] a harvest report including:

A. Date of harvest for each variety;

B. Number of acres or square footage of each variety harvested;

C. Amount of each industrial hemp variety harvested;

D. Location of viable seed storage until distributed, sold, or destroyed if applicable.];

E. Date and amount of industrial hemp transferred to each registered handler or processor; and

F. Name of registered handler or processor, handler registration number and registration expiration date, and processing facility location address.

(E) Handling Reports—

1. Within ten (10) days of purchase, storage, disposal, or processing, the registered handler must produce:

A. Copies of industrial hemp purchasing agreements with registered growers;

B. Copies of all certificates of analysis for all industrial hemp varieties obtained from registered growers;

C. Inventory reports of each variety of industrial hemp being stored and processed, including:

(I) Date of inventory;

(II) Location of stored inventory;

(III) Total amount of industrial hemp and seed of each variety;

(IV) Total amount of unusable industrial hemp and seed of each variety; and

(V) Name, signature, and title of the employee performing inventory.

D. Disposal records for all unusable industrial hemp and seed, including the following:

(I) Date of disposal;

(II) Amount of industrial hemp disposed;

(III) Disposal or destruction method;

(IV) Location of disposal or destruction;

(V) Complete variety name; and

(VI) Name, signature, and title of employee responsible for disposal or destruction.

E. Processing records, including the following:

(I) List of products produced from industrial hemp;

(II) Address or location of processing facility;

(III) List of buyers, if sold, including:

(a) Name, address, and phone number of buyer;

(b) Products purchased;

(c) Quantity of each product purchased; and

(d) Date of distribution.

(F) Seed Reports—

1. Within ten (10) days of storing, distributing, or selling agricultural hemp seed, a registered grower or handler with an agricultural hemp seed production permit must produce:

A. Amount of each variety of agricultural hemp seed the registered grower is retaining from the current season's crop for next year's planting;

B. Amount of each variety of industrial hemp in the registered handler's inventory and documentation verifying the origin of the agricultural hemp seed;

C. Distribution and Sales records—

(I) Name, address, phone number, registration number, and registration expiration date of the registered grower distributing or selling agricultural hemp seed;

(II) Date of transaction, sale, or distribution;

(III) Complete variety name;

(IV) Amount of each variety sold or distributed; and

(V) Name, address, registration number, registration expiration date, and phone number of registered grower to whom the agricultural hemp seed was distributed or sold.]

(4) Permit holders must maintain the following:

(A) Distribution and Sales Reports—

1. Within ten (10) days of distributing or selling propagules or agricultural hemp seeds, permit holders must produce:

A. Name, address, phone number, permit number, and permit expiration date of the permit holder distributing or selling agricultural hemp seed or propagules;

B. Date(s) of sale and distribution;

C. Complete variety name;

D. Amount of each variety sold or distributed;

E. Name, address, and phone number, registration or permit number, and registration or permit expiration date of the registered producer or permit holder to whom the agricultural hemp seed or propagules were distributed or sold; and

F. Documentation verifying that copies of certificates of analysis were provided for each industrial hemp variety distributed or sold.

**(B) Destruction Reports—**

1. Within three (3) days of crop destruction the permit holder must produce a destruction report, including:

A. Copy of the department's order of destruction or a written statement justifying the destruction of an industrial hemp crop and a copy of the department's authorization to destroy;

B. Amount of each variety destroyed;

C. Date of destruction; and

D. Method of destruction.

*AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019.*

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE  
Division 70—Plant Industries  
Chapter 17—Industrial Hemp**

**PROPOSED AMENDMENT**

**2 CSR 70-17.120 Revocation of Registration.** The department is amending the purpose and sections (1)–(4).

*PURPOSE: This amendment clarifies revocation of a producer registration or permit.*

*PURPOSE: This rule explains registration and permit revocations.*

(1) The department may immediately revoke a registration or permit if the registered [grower, registered handler, and/or signing authority] producer or permit holder pleads guilty to, pleads *nolo contendere* to, or is found guilty of, or is convicted of, [any felony] a felony under any state or federal law, within the last ten (10) years, regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance.

(2) The department may immediately revoke a registration or permit if the registered [grower, registered handler, and/or signing authority] producer or permit holder admits to or is found by the department to have[:]—

(A) Violated any provision of sections 195.203 to 195.773, RSMo or any regulation promulgated thereunder;

(B) Made any false statement to the department, the Missouri State Highway Patrol, or any law enforcement agency; or

(C) Failed to comply with any order from the department, or any order regarding industrial hemp from the Missouri State Highway Patrol or any law enforcement agency[; or].

*[(D) Violated the registration agreement required in 2 CSR 70-17.040.]*

(3) Any registered [grower or handler] producer or permit holder whose registration or permit has been revoked shall not harvest, [process,] store, distribute, sell, or remove viable industrial hemp from any location except as authorized in writing by the department.

(4) [The department may schedule a registration revocation hearing after the notification of revocation has been issued] A registered producer or permit holder may request a revocation hearing within thirty (30) days of the issued notification.

*AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019.*

*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 Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE  
Division 70—Plant Industries  
Chapter 17—Industrial Hemp**

**PROPOSED RULE**

**2 CSR 70-17.130 Agricultural Hemp Seed Requirements**

*PURPOSE: This rule designates the labeling requirements for agricultural hemp seed and also designates restricted weed seeds. Both agricultural hemp seed and restricted weed seeds content must be declared on the label to comply with the rule. This rule applies only to agricultural hemp seed and propagule permit holders if they only sell agricultural hemp seeds.*

(1) The following requirements are for permit holders, if they only sell agricultural hemp seeds or propagules.

(2) Definitions.

(A) Restricted Weed Seeds.

1. Prohibited Weed Seeds. The seeds of the following plants: balloon vine (*Cardiospermum halicacabum*), Canada thistle (*Cirsium arvense*), field bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum halepense*), musk thistle (*Carduus nutans*), serrated tussock (*Nassella trichotoma*), and sorghum alnum (*Sorghum alnum*).

2. Noxious Weed Seeds. The seeds of the following plants: plants commonly known as docks of the *Rumex species* (red sorrel, curly dock, etc.), dodders (*Cuscuta species*), buckhorn (*Plantago lanceolata*), eastern black night-shade (*Solanum ptycanthum*), giant foxtail (*Setaria faberi*), hedge bindweed (*Convolvulus sepium*), leafy spurge (*Euphorbia esula*), hoary cress (*Cardaria draba*), purple moonflower (*Ipomoea muricata*), quackgrass (*Elymus repens*), Russian thistle (*Salsola pestifer*), slender oats (*Avena barbata*), wild garlic (*Allium vineale*), wild oats (*Avena fatua*), wild onion (*Allium canadense*) and yellow star thistle (*Centaurea solstitialis*) are designated as noxious

and are subject to listing on seed labels.

(B) Percentage of Germination. The label claim for percent of germination shall be the result of a test of any lot of seed which has been sampled according to and analyzed by the *AOSA Rules for Testing Seed*, (Vol. 1, 2018), Association of Official Seed Analysts.

(3) Agricultural Hemp Seed Labeling Requirements.

(A) Labeling Seed as to Noxious Weed Seed Content. Noxious weed seed content must be labeled in one (1) of the three (3) following ways:

1. None—meaning no noxious weed seed is present;
2. Not in excess of eighty (80) noxious weed seeds per pound or eighteen (18) per one hundred (100) grams.
3. Name and number of each kind of noxious weed seed present, when in excess of that stated in paragraph (3)(A)2.

(B) The seed label shall show the name, complete address, and zip code of the seed labeler.

(C) The purity percentages of pure seed, inert matter, other crop and weeds' seed shall total one hundred percent (100%) on the seed tag.

(D) The information required on an agricultural seed label should appear in the following format:

Kind or Kind and Variety of Seed		
Pure seed %	Germination %	Net weight
Inert matter %	Hard seed %	Lot #
Other crop %	Total germination and hard seed %	Origin
Weed seed %		Month and year of germination test
Noxious weed seeds per pound or per one hundred (100) grams		
The name and address of person or company held responsible for seed labeling should follow other information or should be printed on opposite side of label.		

(E) No advertising matter of any kind shall be printed on the label.

(F) No printed or written matter of any kind shall be attached to the original label.

(G) Seed in Storage. Any agricultural hemp seed, whether in bags, bins or other containers exposed to customers in a retail sales outlet, shall be considered offered or exposed for sale for seeding purposes in Missouri and will be subject to the provisions of this rule, unless the seed is labeled in one (1) of the following ways: "For Feeding Purposes Only" (with no reference being made to germination, variety, or other factors indicating that the seed is suitable for seeding purposes) or "For Processing Only—Not For Sale."

(H) Any treatment of seed regulated by this law must be labeled to show the treatment.

1. The labeling of a treatment for seed must be done either on a separate tag or on the bag.

2. If a treatment adds more than one percent (1%) to the weight of the seed, that weight must also be included in the inert matter weight of the seed.

3. If the amount of treatment on the seed is harmful to man or animal, the label shall name the additive and give a precautionary use statement. In addition, a contrasting colored dye showing evidence of treatment must be used.

4. If the treatment of the seed is an inoculant, a date of expiration must be stated.

(I) The owner or possessor shall be responsible for properly labeled bulk or opened bags of agricultural seed.

*AUTHORITY: section 195.773, RSMo Supp. 2019. Original rule filed Sept. 30, 2019.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Missouri Department of Agriculture, Plant Industries Division, Hemp Program, PO Box 630, Jefferson City, MO 65102, or online at [Agriculture.Mo.Gov/proposed-rules/](http://Agriculture.Mo.Gov/proposed-rules/). 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 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION**  
**Division 30—Division of Financial and Administrative Services**  
**Chapter 261—Pupil Transportation**

**PROPOSED AMENDMENT**

**5 CSR 30-261.025 Minimum Requirements for School Bus Chassis and Body.** The State Board of Education is proposing to amend section (1), delete section (2), and amend the incorporated by reference material.

*PURPOSE: This amendment to the Missouri Minimum Standards for School Buses will again allow school bus slogans and logos to be placed on the side of school buses.*

*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) The *Missouri Minimum Standards for School Buses* (revised [October 2016] **September 2019**) is hereby incorporated by reference and made a part of this rule as published by the Department of Elementary and Secondary Education, Financial and Administrative Services, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480, **and its website at <https://dese.mo.gov/financial-admin-services/student-transportation/school-bus-standards> and at <https://dese.mo.gov/governmental-affairs/dese-administrative-rules/incorporated-reference-materials>**. This rule does not incorporate any subsequent amendments or additions. The *Missouri Minimum Standards for School Buses* reflects the changing needs of pupil transportation in Missouri, changes in the national specifications for school buses, and federal motor vehicle safety standards. The changes will enhance the safety of schoolchildren being transported in school buses.

*[(2) The minimum requirements for school bus chassis and body are divided into four (4) sections. Each section explains the specifications for the parts of a school bus. Section (1) deals with general provisions relative to administrative concerns. Section (2) defines the different types of school buses. Section (3) explains the minimum specifications for a school bus body and chassis. Section (4) explains the minimum specifications for a school bus equipped specifically to transport students with disabilities.]*

*AUTHORITY: sections 161.092 and 304.060, RSMo 2016. This rule was previously filed as 5 CSR 40-261.025. Original rule filed Feb. 23, 1981, effective Oct. 1, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 24, 2019.*



*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 Department of Elementary and Secondary Education, ATTN: Debra Clink, Student Transportation Manager, Financial and Administrative Services, PO Box 480, Jefferson City, MO 65102-0480, and by email to [finadmgo@desse.mo.gov](mailto:finadmgo@desse.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 9—DEPARTMENT OF MENTAL HEALTH  
Division 45—Division of Developmental Disabilities  
Chapter 3—Services and Supports**

**PROPOSED RULE**

**9 CSR 45-3.090 Behavior Supports**

*PURPOSE: This rule sets forth requirements for providers under contract with the Department of Mental Health to support individuals with intellectual and developmental disabilities and assure the rights of individuals to receive best practice behavior strategies that lead to greater independence and enhanced quality of life. This rule describes the division's oversight of behavior supports, establishes and describes the role and function of behavior supports review committees.*

(1) Definitions.

(A) Applied behavior analysis—The design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationships between environment and behavior, as established in section 337.300(1), RSMo;

(B) Behavior analysis services—Use of applied behavior analysis principles and technology to assist support systems of individuals with challenging behaviors to prevent those behaviors as well as teach, promote, encourage, and reinforce alternative skills and behaviors;

(C) Behavior support plan (BSP)—A part of the individual support plan that is comprised of behavior analytic procedures developed to systematically address behaviors to be reduced or eliminated and behavior skills to be learned;

(D) Blocking—A staff person using a part of their body to prevent an individual from inflicting or incurring harm when an individual is attempting to hit, kick, or otherwise harm himself or herself, the staff, or another person. Use of pads, cushions, or pillows to soften or prevent impact to the individual or others is also considered blocking. Blocking does not involve grasping or holding any part of the individual's body;

(E) Challenging behaviors—Culturally undesirable behavior(s) likely to both limit access to the community and interfere with independence and autonomy;

(F) Chemical restraint—Medications (prescribed or over-the-counter) administered with the primary intent of restraining an individual who presents a likelihood of serious physical injury to himself or others, not prescribed to treat a person's medical condition (as defined in section 630.005, RSMo);

(G) Due process—The right to be notified and heard on the limitation or restriction, the right to be assisted through external advoca-

cy if an individual disagrees with the limitation or restriction, and the right to be informed of available options to restore the individual's rights;

(H) Emergency interventions—Reactive strategies that are not part of the individual's plan used to maintain safety of the individual or others in the threat of imminent harm. These are strategies used for one (1) or two (2) incidents until a planned intervention is developed in the safety crisis plan and/or BSP. These emergency interventions may involve physical restraint strategies. These interventions must be least restrictive and comply with statutes, rules, regulations, and policies of the division;

(I) Emergency intervention system—also called physical crisis management programs—A formal curriculum and training program to teach prevention, de-escalation, and physical restraint, also called manual holds, to maintain safety in emergency situations;

(J) Exclusion time out—The temporary exclusion of an individual from access to reinforcement, as part of a formal BSP, in which, contingent upon the individual's undesirable behavior(s), the individual is excluded from the potentially reinforcing situation but remains in the same area with others present;

(K) Functional Behavior Assessment (FBA)—Information-gathering process used to understand the purpose of challenging behavior. The functional assessment must be designed and monitored by a licensed behavior analyst, or licensed psychologist, counselor, or social worker trained in behavior analysis;

(L) Informed consent—Consent for treatment based on certain basic elements that include: an understandable explanation and purpose of the procedure to be followed, a description of physical, emotional, or mental discomfort or risk to be expected, an offer to answer any inquiries concerning the procedure, and an explanation that at any time consent can be rescinded. Informed consent must be obtained from the individual, or the guardian for individuals who have a guardian. Every effort should be made to obtain informed agreement from individuals with guardians;

(M) Individual Support Plan (ISP)—A document that results from the person centered planning process, which identifies the strengths, capacities, preferences, needs, and personal outcomes of the individual. The ISP includes a personalized mix of paid and non-paid services and supports that will assist the person to achieve personally defined outcomes;

(N) ISP team—The individual, the individual's designated representative(s), and the support coordinator. Providers of waiver-funded services may also participate in the ISP team if the individual or guardian requests such participation;

(O) Least restrictive procedure—A procedure that maximizes an individual's freedom of movement, access to personal property, and/or ability to refuse while maintaining safety. The degree of restrictiveness is based on a comparison of the various possible procedures that would maintain safety for the individual in a given situation;

(P) Licensed behavioral support professional—individual licensed in the state of Missouri under section 337.315 (6) and (7), RSMo.

(Q) Manual hold—also called physical restraint and manual restraint—Any physical hold involving a restriction of an individual's voluntary movement. Physically assisting someone who is unsteady, or blocking to prevent injury, is not considered a manual hold;

(R) Mechanical restraints—Any device, instrument, or physical object used to confine or otherwise limit an individual's freedom of movement that cannot be easily removed. Examples may include locking a wheelchair, taking crutches, taking power mechanism from wheelchairs, special seat belts that cannot be removed by the individual, or other ways of restricting an individual's mobility. Mechanical restraints are prohibited from use in home and community based settings. The following are not considered mechanical restraints:

1. Medical protective equipment prescribed as part of medical treatment for a medical issue;

2. Physical equipment or orthopedic appliances, surgical dressings or bandages, or supportive body bands or other restraints necessary for medical treatment, routine physical examinations, or medical tests;

3. Devices used to support functional body position or proper balance, or to prevent a person from falling out of bed, falling out of a wheelchair;

4. Typical equipment used for safety during transportation, such as seatbelts or wheelchair tie-downs; or

5. Mechanical supports or supportive devices used in normative situations to achieve proper body position and balance;

(S) Person centered planning process—A process directed by the individual, with the inclusion of a circle of support created by or with the individual, a guardian, the responsible party or other person as freely chosen by the individual, who are able to serve as important contributors to the process. The person-centered planning process enables and assists the individual to access a personalized mix of paid and non-paid services and supports that will assist him/her to achieve personally defined outcomes. These trainings, supports, therapies, treatments and/or other services become part of the ISP;

(T) Preventative strategies—Clearly defined protocols which describe knowledge and skill sets that providers and/or the individual must implement in order to prevent occurrences of undesirable behaviors or the use of restrictive supports while also creating increased opportunities for success. Preventative strategies are documented in the support section of the ISP;

(U) PRN—A medical term meaning “when necessary”;

(V) PRN Psychotropic medication for behavioral support—Medication (pharmacologic agent) that affects a person’s mental status and is prescribed to be given according to circumstance rather than at a scheduled time. If utilized, the BSP/ISP must include skill or responses to be developed to reduce the need for the PRN and must specifically describe strategies to address the situation prompting the PRN use. Use of PRN psychotropic medication is considered both a reactive strategy and a restrictive intervention;

(W) Provider—Any entity or person under contract with the Department of Mental Health (DMH) to serve individuals with developmental disabilities funded by general revenue or through home and community-based waivers administered by DMH;

(X) Psychotropic/behavior control medications—Any medication that affects the person’s mental status or behaviors regardless of their diagnoses;

(Y) Qualified personnel—Staff persons who have received training, demonstrated competency, and maintained required certification and understanding of the following:

1. The Physical Crisis Management System utilized at the agency in which they are employed;
2. The implementation of the individual’s safety crisis plan;
3. The implementation of the BSP and ISP;
4. All requirements as a service provider outlined in the most current service definitions for providers;

(Z) Reactive strategies—Actions, responses, and planned and unplanned interventions in response to challenging behavior. Emergency interventions are types of reactive strategies. Reactive strategies have the aim of bringing about immediate change in an individual’s behavior or control over a situation so that risk associated with the behavior is minimized. Reactive strategies may take a number of forms and can include environmental, psychosocial, and restrictive interventions. Such procedures may be utilized as a first time response to an emergency situation. This also includes responses that are more delayed such as restricting access to the community or increased levels of supervision;

(AA) Reactive strategy threshold—The use of five (5) or more reactive strategies within a one (1) month period. This threshold applies to the use of reactive strategies that also meet the definition of restrictive interventions;

(BB) Regional Behavior Supports Committee (RBSC)—A committee consisting of a chairperson who is a Licensed Behavior Analyst,

employed by the division and appointed by the division director or designee, along with qualified members, whose functions include meeting the expectations set forth in this rule;

(CC) Regional Office (RO)—Local offices of the Division of Developmental Disabilities (referred to as “the division” throughout this document) serving a defined geographic region of the state;

(DD) Restrictive interventions—The use of interventions that restrict movement, access to other individuals, locations or activities, restrict rights or employ aversive methods to modify behavior. These may also be called restrictive supports, procedures, or strategies;

(EE) Safety assessment—An assessment by the planning team and a medical professional of an individual’s physical, and/or emotional status. This includes history and current conditions that might affect safe usage of any reactive strategies, and identifies those reactive strategies that should not be used with the individual due to medical or psychological issues of safety. The safety assessment should be completed annually or on the occasion of any significant change;

(FF) Safety crisis plan—An individualized plan outlining the reactive strategies designed to most safely address dangerous behaviors at the time of their occurrence or to prevent their imminent occurrence, included as part of a BSP or ISP;

(GG) Seat belt guard—A safety device to prevent the release of the seat belt while the car is in motion. Seat belt guards are not mechanical restraints;

(HH) Seclusion time-out—The involuntary confinement of an individual alone in a room or an area from which the individual is physically prevented from having contact with others or leaving. This is sometimes referred to as a safe room or calm room. Locked rooms (using a key lock or latch system not requiring staff directly holding the mechanism) are prohibited.

(II) Significantly challenging behaviors—Actions of the individual which can be expected to result in issues described in paragraphs 1.—6. below. Services to address these behaviors may necessitate involvement of a licensed behavior analyst or other licensed professional with appropriate training and experience—

1. Have resulted in external or internal injury requiring medical attention or are expected to increase in frequency, duration, or intensity such that medical attention may be necessary without intervention by a licensed behavior support professional;

2. Have occurred or are expected to occur with sufficient frequency, duration, or intensity that a life-threatening situation might result because of self-injury, aggression, or property destruction. Examples include excessive eating or drinking, vomiting, ruminating, eating non-nutritive substances, refusing to eat, swallowing excessive amounts of air, or running into traffic;

3. Have resulted or are expected to result in major property damage or destruction, value of property more than two hundred dollars (\$200);

4. Have resulted in or are expected to result in arrest and confinement by law enforcement personnel;

5. Have resulted in the need for additional staffing and/or behavioral/medical personal assistant services; or

6. Have resulted in the repeated use of emergency interventions and restrictive supports; and

(JJ) Waiver assurances—As a condition of waiver approval by the Centers for Medicare and Medicaid Services, states collect and report performance data to measure compliance with assurances specified in the *Code of Federal Regulations* at 42 CFR 441.302.

(2) Rights of individuals and assurances.

(A) No individual shall experience restrictive supports without due process. Restrictive supports include but are not limited to any limitation of access to:

1. Communication with others;
2. Leisure activities;
3. The individual’s own money or personal property;
4. Goods or services per typical routines;
5. Access to parts of the home or the community; and

6. Privacy or independence via any direct observation and procedures such as continuous one-to-one staffing during times or places which would otherwise be considered private.

(B) In addition to those rights described in and assured by federal and state law and 9 CSR 45-3.030, all individuals served by the division have the right to be treated with dignity and respect, to receive services in the least restrictive environment, and to be assured freedom from coercion and aversive stimuli.

(C) All individuals served by the division have strategies that may prevent problem situations and challenging behaviors included in their ISPs. Preventive strategies shall meet the following conditions:

1. If there is a BSP, preventive strategies must be included;
2. Preventive strategies may be developed by non-licensed team members if the behavior of concern meets the following conditions:

A. The behavior has not caused significant injury or danger to self, others, or property; and

B. The behavior has not restricted the individual's access to the community, and if the support strategies involved typically may be considered public domain by promoting a more positive environment, enriching the individual's daily routine, and teaching more functional skills, but are not solely the practice of applied behavior analysis.

(D) Individuals who are receiving paid supports who have experienced or are considered by the person centered planning team as likely to experience emergency interventions shall—

1. Have qualified personnel supporting them who have been competency trained in an emergency intervention system, who maintain current certification in the system; and
2. Have a safety assessment and a current safety crisis plan with all support providers.

(3) Service delivery.

(A) Individuals have the right to receive appropriate supports and services in accordance with their ISP and in accordance with 9 CSR 45-2.017.

(B) Individuals are integrated in and have access to the greater community in accordance with 42 CFR 441.301. The division ensures that services provided are of good quality and comparable to those provided to persons in the community without disabilities.

(C) Providers comply with the terms and conditions of the home and community-based waivers approved by the Centers for Medicare and Medicaid Services and operated by the division and the MO HealthNet DD Waiver Provider Manual.

(4) Contracted providers shall monitor and implement positive proactive strategies to reduce the likelihood that an individual will require reactive strategies or restrictive interventions. Providers shall develop processes to review the problem situations when the reactive strategy threshold is reached.

(A) Individuals reaching the reactive strategy threshold trigger the planning team's extensive review and analysis of the problem situations. The planning team should—

1. Convene within five (5) business days to complete the review and any restrictions of the supports, environment, training for staff, medications or other issues that might affect the individual;
2. Identify triggers, preventative strategies, and barriers to using the least restrictive strategies;
3. Consider the need for a functional behavior assessment, and development of a formal BSP or revision of an existing BSP; and
4. Develop new or revised proactive strategies and strategies to prevent situations that are likely to result in use of reactive strategies.

(B) Any individual meeting the reactive strategy threshold for three (3) consecutive quarters should be referred to the Regional Behavior Support Review Committee for consultation. If an individual meets the reactive strategy threshold of five (5) or more in a one (1) month period, the planning team should request the support coordinator submit a request for behavioral services.

(5) Restrictive Interventions other than approved physical crisis management procedures shall not be used as an emergency or crisis intervention.

(A) Use of restrictive procedures that meet the definition of reportable events must be reported in accordance with 9 CSR 10-5.206.

(B) Restrictive interventions are utilized only as alternatives to more restrictive placements and only as a means to maintain safety and allow the teaching of alternative skills that the individual can utilize to more successfully live in the community.

(C) The ISP must include justification for any restrictions. The following requirements must be documented in the ISP:

1. Identification of a specific and individualized assessed need;
2. Documentation that the positive interventions and supports used prior to any modifications to the ISP;
3. Documentation that less intrusive interventions were tried but were not successful;
4. Regular collection and review of data to measure the ongoing effectiveness of the intervention;
5. Established time limits for periodic reviews to determine if the intervention is still necessary or can be terminated;
6. Informed consent of the individual or their legal guardian; and
7. Assurances that interventions and supports will cause no harm to the individual as described in 42 CFR 441.301(c)(2)(xiii).

(D) Prohibited procedures—The following interventions are prohibited by the division and are considered at high risk for causing harm:

1. Any technique that interferes with breathing or any strategy in which a pillow, blanket, or other item is used to cover the individual's face;
2. Prone restraints (on stomach); restraints positioning the individual on their back supine; or restraints against a wall or object;
3. Restraints which involve staff lying/sitting on top of an individual;
4. Restraints that use the hyperextension of joints;
5. Any technique or modification of a technique which has not been approved by the division, and/or for which the person implementing the technique has not received division-approved training;
6. Mechanical restraints;
7. Any strategy that may exacerbate a known medical or physical condition, or endanger the individual's life, or is otherwise contraindicated for the individual by medical or professional evaluation;
8. Use of any reactive strategy or restrictive intervention on a "PRN" or "as needed" basis;
9. Standing orders for use of restraint procedures not part of a comprehensive safety crisis plan that delineates prevention, de-escalation, and least restrictive procedures to attempt prior to use of restraint;
10. Any procedure used as punishment, for staff convenience, or as a substitute for engagement, active treatment, or behavior support services;
11. Use of law enforcement or emergency departments cannot be incorporated into ISPs or BSPs as "PRN" procedures or as contingencies to eliminate or reduce problem behaviors;
12. Reactive strategy techniques administered by other individuals who are being supported by the agency;
13. Corporal punishment or use of aversive conditioning—Applying painful stimuli as a penalty for certain behavior, or as a behavior modification technique;
14. Overcorrection strategies—Requiring the performance of repetitive behavior as a consequence of undesirable behavior designed to produce a reduction of the frequency of the behavior;
15. Placing persons in totally enclosed cribs or barred enclosures other than cribs; and
16. Any treatment, procedure, technique, or process prohibited by federal or state statute.

(E) Procedures that may be conditionally approved in writing by

the division—

1. Any modification to a physical crisis management technique or any non-nationally recognized physical crisis management system;

2. Seclusion time-out placement of a person alone in a secured room or area which the person cannot leave at will shall only be utilized as part of an approved BSP. The use of seclusion time-out requires ongoing services from a licensed behavioral service provider and prior review and approval by the RBSC; and

3. Use of physical crisis management procedures when part of a comprehensive safety crisis plan that delineates prevention, de-escalation, and least restrictive procedures to attempt prior to use of restraint.

(6) BSPs are developed by a licensed behavioral service provider in collaboration with the individual's support system. The techniques included in the plan are based on a functional assessment of the target behaviors. The techniques meet the requirements for the practice of applied behavior analysis under sections 337.300 through 337.345, RSMo. The BSP includes the following information:

(A) Alternative behaviors for reduction and replacement of target behaviors, defined in observable and measurable terms. They are specifically related to the individual and relevant environmental variables based on FBA;

(B) Goals and objectives for acquisition of appropriate alternative behaviors;

(C) Interventions aligned with positive functional relationships described in FBA including strategies to address establishing operations, contextual factors, antecedent stimuli, contributing and controlling consequences, and physiological and medical variables;

(D) Data collected must include antecedents/triggers, description of events, duration, consequence/result, and effects of interventions;

(E) If physical restraint or seclusion time-out are used, health status is monitored and data documented for one (1) hour after the event in fifteen (15) minute intervals. Health status data includes monitoring of vital signs including pulse, visual observations of energy/lethargy level, engagement with others, and other observed reactions;

(F) Description of specific data collection methods for target behaviors to assess the effectiveness of the strategies and data collection methods to assess the fidelity of implementation strategies;

(G) Data displayed in graphic format in the monthly progress reports, with indications for the environmental conditions and changes relevant to target behaviors;

(H) Proactive strategies to prevent challenging behaviors, improve quality of life, promote desirable behaviors, and teach skills, that are specifically described for consistent implementation by family and/or staff;

(I) Specific strategies with detailed instructions for reinforcement of desirable target behaviors;

(J) Specific strategies to generalize and maintain the desired effects of the BSP, including strategies for fading contrived contingencies to natural contingencies to support system changes and maintain these strategies after BSP is faded;

(K) A safety crisis plan if it is necessary to have strategies to intervene with at risk behaviors to maintain safety;

(L) If a plan includes physical restraint or seclusion time-out, specific criteria and procedures are identified;

(M) Target behavior(s) related to the symptoms for which psychotropic medications were prescribed and when they should be administered and the process for communicating data with the prescribing physician;

(N) Description of less restrictive methods attempted in the past, their effectiveness, and rationale that proposed BSP strategies are the least restrictive and most likely to be effective as demonstrated by research or history of individual;

(O) The method of performance based training to competency for caregivers and staff providing oversight;

(P) The qualified behavioral service provider reviews data at least

monthly; and

(Q) Description of how the plan will be communicated to all supports and services including the frequency with which the ISP team will receive updates.

(7) A safety crisis plan is developed by the support team after the first use of any reactive strategy or when the personal history of the individual indicates there is a likelihood that reactive strategies may be needed in the future, or where the individual's support team plans to use reactive strategies.

(A) If reactive strategies are considered likely and necessary, the team should be proactive and consider the need for more specialized support strategies in the ISP and services such as Person Centered Strategies Consultant or Behavior Analysis Services (see Medicaid Waiver service definitions);

(B) Procedures identified are least restrictive and within safety parameters of the safety assessment. These are used as a last resort after implementation of proactive, positive approaches;

(C) If a safety crisis plan includes physical restraint, exclusion time-out, or seclusion time-out, specific criteria and procedures are identified;

(D) The plan includes the informed consent of the person, their parent, or guardian;

(E) The safety crisis plan is a part of the ISP; and

(F) Safety crisis plans are part of any BSP.

(8) If a safety crisis plan includes the use of physical restraint, the name of the approved or nationally recognized crisis management program must be included in the individual's safety crisis plan (as per section 630.175.1, RSMo). Restraints are only used in situations of imminent harm to prevent an individual from injuring self or others. Less restrictive crisis management procedures, including de-escalation techniques and environmental management, should be attempted prior to use of any type of restraint. Use of physical restraints are documented in a safety crisis plan.

(A) Physical Restraints. Techniques used to physically restrain individuals are limited to those from nationally recognized physical crisis management programs or internally developed programs approved by the division.

1. Requests for use of physical crisis management systems other than those that are nationally recognized must be made, in writing, to the Chief Behavior Analyst of the division. If internally developed systems are approved and utilized, a quarterly analysis of the use of the restraint procedures and strategies to eliminate the need is completed and submitted to the Chief Behavior Analyst.

2. The physical restraint techniques are used only in the manner designed, are formally trained to competency, and staff maintain certification as specified by the physical crisis management system.

3. Physical restraint techniques are only employed for situations of imminent harm to self or others and not to protect property.

4. Any improper or unauthorized use of a physical restraints or excessive application of force may be considered abuse and may prompt an investigation.

5. Blocking is not considered a physical restraint procedure if used as defined in this rule.

(B) Chemical restraints include prescription and over the counter medications and require the approval of the division director or his/her designee prior to implementation of these restraints. Any use of a chemical restraint must be included in an approved safety crisis plan meeting the following criteria:

1. Identification of chemical restraints to be used;

2. Written physician orders for any chemical restraints are time limited and for no longer than three (3) hours;

3. Written physician orders are placed in the individual's record and contain at least the following information:

A. Brief description of the imminent harm situation including ongoing activities, staff actions, and the individual's actions that relate to the imminent harm;

- B. Type of chemical restraint used;
- C. The time when the order was written;
- D. The time when the chemical restraint was first administered;

4. Ongoing visual observation and safety checks during the time that the chemical restraint is affecting the individual;

5. Standing or PRN orders for chemical restraints shall not be used. Specification in a safety crisis plan or reactive strategies deemed safe for an individual and/or recommended as the most likely to be effective will not be considered as PRN orders;

6. The authorized medical professional designated by the physician writing the order observes the individual and evaluates the situation within thirty (30) minutes from the time chemical restraints were initiated; and

7. In an emergency in which an on-site authorized physician is not available, only a registered nurse or a qualified licensed practical nurse may administer chemical restraints to an individual and only after receiving an oral order from an authorized physician.

A. The documentation of such oral orders include the following:

- (I) Name of physician who gave the order;
- (II) Name of nurse who received the order;
- (III) Name of nurse who actually administered the chemical restraint—identify behaviors requiring the chemical restraint in specific terms that allow measurement;
- (IV) Anticipated effects of the medication and time frame related to the effects.

B. The person administering the chemical restraints documents the information required and the physician's oral order in the individual's record or equivalent record.

C. The oral order is signed by a physician as soon as possible after the initial administration of the chemical restraint.

(C) Mechanical restraints are prohibited.

(9) Utilization of a seclusion time-out (or safe-room) procedure requires prior approval from the Chief Behavior Analyst. Request for such approval must include a functional assessment of the target behavior, a BSP, the rationale for the use of the procedure, and data supporting the need for the procedure and that less restrictive interventions were ineffective. The Chief Behavior Analyst must also approve of the designated time-out area or room.

(A) Seclusion time-out will become a prohibited procedure as of July 1, 2021.

(B) Behavioral services remain active during the time period in which the BSP (seclusion time-out intervention) is in place.

(C) The BSP with a seclusion time-out procedure includes all elements identified in section (6) of this rule as well as the following:

1. Specification that only qualified personnel may use seclusion time-out for an individual under conditions set out in an approved BSP;

2. If the BSP includes time-out, it is reviewed and approved by the following:

- A. RBSC;
- B. The individual or the family, or legal guardian as appropriate; and
- C. The Chief Behavior Analyst or designee;

3. Target behaviors, operationally defined, and consistent with the function identified in the functional assessment for the target behavior;

4. Description of strategies to ensure high rates of positive reinforcement and engaging activities are available for the individual making "time in" an enriched situation;

5. Criteria for release from seclusion time-out and discontinuation of a seclusion time-out episode—

A. Release from seclusion time-out criteria is limited to no more than five (5) minutes of calm behavior;

B. Total duration for the seclusion time-out episode is no more than one (1) hour except in extraordinary instances (during ini-

tial stage of program) that are personally approved at the time of occurrence by the behavior analyst and reviewed within one (1) business day by the region's assigned area behavior analyst.

C. Continuous observation of the person in time-out.

D. Seclusion time-out will be discontinued if there are any signs of injury or medical emergency and the person will be assessed by appropriate medical personnel.

E. The date, time, and duration of each seclusion time-out intervention is documented on a data sheet and on an event management form.

(D) Time-out areas or rooms shall meet the following safety and comfort requirements:

1. Areas and rooms to be utilized for seclusion time-out and the procedures for the use of seclusion time-out are reviewed and approved by the Chief Behavior Analyst or designee;

2. Continuous observation of the individual in the area is maintained at all times;

3. Adequate lighting and ventilation is used at all times;

4. The area or room is void of objects and fixtures such as light switches, electrical outlets, door handles, wire, glass, and any other objects that could pose a potential danger to the individual in time-out;

5. If there is a door to the room or area, it will open in the direction of egress such that the individual in the room is not able to bar the door to prevent entry;

6. The door is void of any locks or latches that could allow the door to be locked without continuous engagement by a staff person; and

7. The room or area will be at least six (6) feet by six (6) feet in size or large enough for any individual who will utilize the room to lie on the floor without head or feet hitting walls or door.

(10) The division provides oversight for services provided to individuals with significantly challenging behaviors through RBSCs. The division establishes at least two (2) RBSCs. Additional RBSCs may be established depending upon need and staff capacity.

(A) Members of the RBSC are appointed by the division director or designee.

(B) The RBSC consists of three (3) to five (5) members including:

1. A chairperson who is a licensed behavior analysis employed by the division;

2. A member or members of the provider community licensed to practice applied behavior analysis or who provided behavior therapy under contract with DMH prior to January, 2012 or who are working towards Board Certified Behavior Analyst (BCBA) or Board Certified Assistant Behavior Analyst (BCaBA) certification under the supervision of a licensed behavior analysis; and

3. A medical consultant or other professionals as indicated by the information under review or requested by the chairperson.

(C) The RBSC meets at least once every three (3) months, and may meet as often as needed to fulfill responsibilities.

(D) The purpose of RBSCs is to promote the implementation of best practice strategies that lead to greater independence and enhanced quality of life for individuals experiencing challenging behaviors. RBSCs ensure the following:

1. That waiver assurances are met;

2. That best practice behavioral services are followed;

3. That ethical guidelines are followed;

4. That behavioral strategies are least restrictive; and

5. That implementation of strategies documented in the ISPs and BSPs support progress toward greater independence and enhanced quality of life.

(E) The division establishes RBSC review criteria to prioritize the individuals with significantly challenging behaviors and those individuals whose supports include restrictive interventions.

1. Individuals experiencing significantly challenging behaviors reaching threshold criteria for reactive strategies, or who have been prescribed psychotropic/behavior control medications, or who have

PRN psychotropic medication for behavioral support.

2. A BSP may be reviewed based on a request by the members of the ISP, including but not limited to the parent/guardian, support coordinator, or Regional Director (or designee) to provide technical assistance.

3. The Regional Director and the RBSC prioritize reviews to ensure appropriate representation based upon issues that represent regional challenges to meet identified objectives.

4. The RBSC shall respond to requests for review within thirty (30) calendar days of receipt of the request.

5. The support coordinator and provider of BSPs and ISPs reviewed by the RBSC will receive written summary of the RBSC's recommendations within five (5) working days of the RBSC's review of the BSPs or ISPs.

(11) If use of prohibited or unauthorized procedures is discovered, the following occurs:

(A) Regional Director is notified of the use of prohibited procedures, the agency involved, persons for whom the procedures were utilized, and reasons for use;

(B) Regional Director directs regional staff and Area Behavior Analyst to conduct a focused review of the agency;

(C) If the focused review confirms that prohibited or unauthorized procedures were used, the Regional Director will be informed and notify the provider and support coordinator;

(D) Area Behavior Analyst works with planning teams to determine appropriateness of strategies and need for additional services to assist the provider to address the situations positively, proactively, and preventatively;

(E) Area Behavior Analyst refers supports of individuals, for whom the prohibited practices have been used, to the RBSC; and

(F) Follow up reviews of the provider will occur to ensure that appropriate procedures and supports are utilized and prohibited practices have been discontinued for a duration determined by the Chief Behavior Analyst.

*AUTHORITY: sections 630.050 and 630.175, RSMo Supp 2019. Original rule filed Sept. 20, 2019.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule 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 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 1—Organization and Operation of Board of Trustees**

**PROPOSED AMENDMENT**

**16 CSR 10-1.010 General Organization.** The Public School Retirement System of Missouri is amending section (1).

*PURPOSE: This amendment allows the Board Chairman to reschedule a regular meeting for a month other than February, April, June, August, October, or December or for an alternate location for good cause. Examples would include, but are not limited to, weather concerns, natural disasters, or unforeseen schedule issues.*

(1) The board of trustees of The Public School Retirement System of Missouri shall hold regular meetings in the office of the executive director during the months of February, April, June, August, October, and December of each calendar year on one (1) or more days voted upon by the board of trustees; provided that the board of trustees may vote to hold a regular meeting in a different location or by telephone or other electronic means. **The chairman may reschedule a previously scheduled regular meeting for a month or location other than as described in the preceding sentence for good cause.** The chairman or four (4) board members acting jointly may call special meetings at times and locations and by means as may be necessary. The executive director shall provide notice of the time and place of all meetings of the board in accordance with the applicable provisions of sections 610.010 through 610.035, RSMo. All meetings of the board of trustees shall comply with the applicable provisions of sections 610.010 through 610.035, RSMo. Information concerning meetings, rules, or any operations of the system may be obtained by writing or calling the Executive Director, PO Box 268, Jefferson City, MO 65102.

*AUTHORITY: section 169.020, RSMo [2000] 2016. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 23, 2019.*

*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 Public School Retirement System of Missouri, attn: General Counsel, at PO Box 268, 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 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 5—Retirement, Options and Benefits**

**PROPOSED AMENDMENT**

**16 CSR 10-5.010 Service Retirement.** The Public School Retirement System is amending sections (6) and (20).

*PURPOSE: The amendment to section (6) relates to working after retirement for PSRS members and is necessary pursuant to HB 77 which became effective on April 16, 2019 pursuant to the bill's emergency clause. This legislation placed PSRS retirees working after retirement for Community Colleges back under the 550 hour/50% limitation, instead of the \$15,000 salary limitation that had been imposed under last year's Senate Bill 892. The amendment also makes a few clean up edits that are non-substantive.*

*The proposed amendment to section (20) is necessary pursuant to CCS SB 17 enacted August 28, 2019. This legislation expands the System's current divorce pop-up provisions to allow a pop-up to the single life benefit for individuals divorced prior to September 1,*

2017. *Certain requirements must be met. If the divorce decree provides for sole rights to the member's retirement benefit, the pop-up can be accomplished by the ex-spouse signing a consent and disclaimer form and providing it to the System. If the divorce decree does not provide the member with sole rights to the retirement benefit, the parties must return to court to obtain an amended decree.*

(6) Part-time employment is any employment which is less than full-time. Temporary-substitute employment is any employment either in a position held by a regularly employed person who is temporarily absent or in a position which is temporarily vacant.

(A) A retiree **receiving a retirement benefit, other than a disability benefit, from the Public School Retirement System of Missouri (PSRS)** may be employed by an employer included in the system to serve on a part-time or temporary-substitute basis in any position that would normally require that person to be duly certificated by the Department of Elementary and Secondary Education (DESE), including substituting in a teaching position, **or in any position at a community college included in the system** not to exceed five hundred fifty (550) hours in any one (1) school year and through such employment may earn an amount not in excess of the compensation limit set forth in this rule and section 169.560, RSMo, without a discontinuance of the retired member's retirement allowance. The limit on compensation shall be determined as set forth in section 169.560, RSMo. If the position or positions did not previously exist, a retired member may earn up to fifty percent (50%) of the annual compensation payable for the position within the employer that is most comparable to the position filled by the retired member without exceeding the compensation limit. If such employment exceeds either the limitation on hours worked or the limitation on compensation, payment of benefits to the retired member shall cease until the employment terminates or a new school year begins.

(C) A retiree receiving a retirement benefit, other than a disability benefit, from *[the Public School Retirement System of Missouri (PSRS)]* may be employed by an employer included in that system in any position that normally does not require a person employed in that position to be duly certificated by the Department of Elementary and Secondary Education and through such employment may earn during the school year not more than sixty percent (60%) of the minimum teacher's salary for a teacher without a master's degree as set forth in section 163.172, RSMo without a discontinuance of the retiree's retirement allowance. The employer shall contribute to the Public Education Employee Retirement System of Missouri (PEERS) at the rate set for that system on all salary as defined in section 169.010, RSMo and 16 CSR 10-3.010(9) of the person so employed. Such employee shall not contribute on such earnings and shall earn no service credit in either system for such employment. If such employment exceeds the limitation on compensation, the retiree's retirement benefit from PSRS shall cease until the employment terminates or a new school year begins, and such person shall become a member of and contribute to any retirement system described in this subsection if the person satisfies the retirement system's membership eligibility requirements. A PSRS retiree who meets PSRS eligibility requirements after exceeding the limits set forth above shall not be eligible to elect membership in PEERS under section 169.712, RSMo. **The provisions of this subsection shall not apply to positions held by a PSRS retiree employed by a community college included in the system.**

(E) The employer covered by *[the Public School Retirement System of Missouri] PSRS*, the third-party employer, the independent contractor, and the retiree shall maintain a log of all dates worked, hours worked, wage earned, and the employer. The employer covered by *[the Public School Retirement System of Missouri] PSRS*, the third-party employer, the independent contractor, and retiree shall provide a copy of the work log upon request of retirement system.

Employee Name:		School Year:	
Date Worked	Hours Worked	Wage Earned	Employer

The working after retirement limits set forth in section 169.560, RSMo, shall be applied on a *pro rata* basis as provided below to a retiree's hours of work during the school year in which the retiree's date of retirement is effective.

Effective date of retirement	Hours allowed after retirement for school year
July 1	550
August 1	504
September 1	458
October 1	413
November 1	367
December 1	321
January 1	275
February 1	229
March 1	183
April 1	138
May 1	92
June 1	0

The working after retirement limits set forth in section 169.560, RSMo, shall be applied on a *pro rata* basis as provided below to a retiree's base salary to determine the retiree's earnings limit during the school year in which the retiree's date of retirement is effective.

Effective date of retirement	Percentage of base salary allowed after retirement for school year
July 1	50%
August 1	46%
September 1	42%
October 1	38%
November 1	33%
December 1	29%
January 1	25%
February 1	21%
March 1	17%
April 1	13%
May 1	8%
June 1	0%

(20) Any member receiving a retirement allowance from the Public School Retirement System of Missouri who elected a reduced retirement allowance under subsection 3 of section 169.070, RSMo who, at the time of that election, named his or her spouse as the nominated beneficiary may have the retirement allowance increased to the amount the retired member would be receiving had the retired member elected Option 1 *[if the following requirements are met:] under the following circumstances:*

(A) **Where [T]the marriage of the retired member and the nominated spouse [must be] was dissolved on or after September 1, 2017, the dissolution decree must clearly provide for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public School Retirement System. [A dissolution that occurred prior to September 1, 2017 that is modified or amended on or after September 1, 2017 shall not satisfy the requirement that the marriage be dissolved on or after September 1, 2017;]**

(B) **Where the marriage of the retired member and the nominated spouse was dissolved prior to September 1, 2017:**

1. **If the dissolution decree clearly provides for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public School Retirement System, the parties must either obtain an amended or modified dissolution decree after September 1, 2017 that provides for the immediate removal of the nominated spouse, or the nominated spouse must**



sign a notarized statement on a form designated by the Public School Retirement System consenting to his or her immediate removal as the nominated beneficiary and disclaiming all rights to future benefits; and

2. If the dissolution decree does not clearly provide for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public School Retirement System, the parties must obtain an amended or modified dissolution decree after September 1, 2017, which provides for sole retention by the retired member of all rights in the retirement allowance;

[(B)](C) The retired member and the nominated spouse must have been married at the time of the election of the reduced retirement allowance under subsection 3 of section 169.070, RSMo;

[(C) The dissolution decree must clearly provide for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public School Retirement System of Missouri;]

(E) Any such increase in the retirement allowance shall be effective upon the receipt of an application for such increase, including the nominated spouse's consent and disclaimer form, if required, and a certified copy of the decree of dissolution (and separation agreement, if applicable) that meets the requirements of this section. The increased retirement allowance will be paid prospectively only after receipt of [the application and certified copy of the decree of dissolution] all of the aforementioned documents. No retroactive benefits will be paid.

*AUTHORITY:* section 169.020, RSMo 2016. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 23, 2019.

*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 Public School Retirement System of Missouri, attn: General Counsel, at PO Box 268, 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 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 6—The Public Education Employee Retirement System of Missouri**

**PROPOSED AMENDMENT**

**16 CSR 10-6.060 Service Retirement.** The Public School Retirement System of Missouri is amending section (16).

*PURPOSE:* The proposed amendment is necessary pursuant to CCS SB 17 enacted August 28, 2019. This legislation expands the System's current divorce pop-up provisions to allow a pop-up to the single life benefit for individuals divorced prior to September 1, 2017. Certain requirements must be met. If the divorce decree provides for sole rights to the member's retirement benefit, the pop-up can be accomplished by the ex-spouse signing a consent and disclaimer form and providing it to the System. If the divorce decree does not provide the member with sole rights to the retirement benefit, the parties must return to court to obtain an amended decree.

(16) Any member receiving a retirement allowance from the Public Education Employee Retirement System of Missouri who elected a reduced retirement allowance under subsection 4 of section 169.670, RSMo who, at the time of that election, named his or her spouse as the nominated beneficiary may have the retirement allowance increased to the amount the retired member would be receiving had the retired member elected Option 1 [if the following requirements are met] under the following circumstances:

(A) Where [T]the marriage of the retired member and the nominated spouse [must be] was dissolved on or after September 1, 2017, the dissolution decree must clearly provide for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public Education Employee Retirement System of Missouri; [A dissolution that occurred prior to September 1, 2017 that is modified or amended on or after September 1, 2017 shall not satisfy the requirement that the marriage be dissolved on or after September 1, 2017;]

(B) Where the marriage of the retired member and the nominated spouse was dissolved prior to September 1, 2017:

1. If the dissolution decree clearly provides for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public Education Employee Retirement System of Missouri, the parties must either obtain an amended or modified dissolution decree after September 1, 2017 that provides for the immediate removal of the nominated spouse, or the nominated spouse must sign a notarized statement on a form designated by the Public Education Employee Retirement System of Missouri consenting to his or her immediate removal as the nominated beneficiary and disclaiming all rights to future benefits;

2. If the dissolution decree does not clearly provide for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public Education Employee Retirement System of Missouri, the parties must obtain an amended or modified dissolution decree after September 1, 2017, which provides for sole retention by the retired member of all rights in the retirement allowance;

[(B)](C) The retired member and the nominated spouse must have been married at the time of the election of the reduced retirement allowance under subsection 4 of section 169.670, RSMo;

[(C) The dissolution decree must clearly provide for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public Education Employee Retirement System of Missouri;]

(F) Any such increase in the retirement allowance shall be effective upon the receipt of an application for such increase, including the nominated spouse's consent and disclaimer form, if required, and a certified copy of the decree of dissolution (and separation agreement, if applicable) that meets the requirements of this section. The increased retirement allowance will be paid prospectively only after receipt of [the application and certified copy of the decree of dissolution] all of the aforementioned documents. No retroactive benefits will be paid.

*AUTHORITY:* section 169.610, RSMo 2016. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 23, 2019.

*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 Public School Retirement System of Missouri, attn: General Counsel,



at PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**Division 10—Office of the Director  
Chapter 4—Coordinated Health Care Services**

**PROPOSED RESCISSION**

**19 CSR 10-4.020 J-1 Visa Waiver Program.** This rule outlined the Department of Health and Senior Services' J-1 visa waiver recommendation process in accordance with section 214(l) of the Immigration and Nationality Act.

*PURPOSE:* This rule is being rescinded because a substantial portion of it is being updated and clarified in a new rule that will replace it.

*AUTHORITY:* section 191.411.1, RSMo Supp. 2001. This rule was previously filed as 19 CSR 50-4.020. Emergency rule filed April 17, 1995, effective April 27, 1995, expired Aug. 24, 1995. Original rule filed April 17, 1995, effective Oct. 30, 1995. For intervening history, please consult the *Code of State Regulations*. Emergency rescission filed Sept. 17, 2019, effective Oct. 1, 2019, expires March 27, 2020. Rescinded: Filed Sept. 17, 2019.

*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 PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**Division 10—Office of the Director  
Chapter 4—Coordinated Health Care Services**

**PROPOSED RULE**

**19 CSR 10-4.020 J-1 Visa Waiver Program**

*PURPOSE:* This rule outlines the Department of Health and Senior Services' J-1 visa waiver recommendation process in accordance with section 214(l) of the Immigration and Nationality Act.

(1) The following definitions shall be used in the interpretation of this rule:

(A) Department means the Missouri Department of Health and Senior Services;

(B) Director means the director of the Missouri Department of Health and Senior Services; and

(C) Health professional shortage area (HPSA) means a geographic area, population group, or individual facility designated by the United States Department of Health and Human Services, Health Resources and Services Administration as having a shortage of physicians.

(2) A waiver request must come from a Missouri health care facility on behalf of a J-1 Visa physician. All of the required information and documentation, as required by the United States Department of State, J-1 Visa Waiver Program, must be submitted in a single application package with the documents presented in the order as prescribed in subsections (2)(A)-(H). Waiver requests that do not comply with these requirements will not be considered. The required documents include:

(A) A completed Form DS-3035, J-1 Visa Waiver Recommendation Application;

(B) An employment contract between the physician and the health care facility employing the physician named in the waiver application that includes the following:

1. The name and address of the health care facility;
2. A statement that the physician agrees to begin employment with the employer within ninety (90) days of receiving the waiver;
3. A statement that indicates the physician's specialty;
4. The specific geographical area or areas where the physician will practice medicine;

5. A statement by the physician that he or she agrees to meet the requirements set forth in the Immigration and Nationality Act, Section 214(l);

6. An employment period of at least three (3) years in a designated HPSA; and

7. A full-time schedule of at least forty (40) hours per week in direct patient care in the HPSA;

(C) Proof that the location where the physician will practice medicine is in a designated HPSA;

(D) Copies of all Forms IAP-66 or DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status;

(E) A copy of the physician's curriculum vitae;

(F) Proof of eligibility for licensure with the Missouri Board of Healing Arts;

(G) A copy of the statement of no objection from the physician's country of nationality or last residence, if the physician is contractually obligated to return to the home country; and

(H) An original and one (1) unbound copy of the entire application package shall be included.

(3) Application packages will be accepted between October 1 and November 30 of the current year. Each application package received by the department will be reviewed for completeness. Complete applications are those which include all required documentation, as listed in subsections (2)(A)-(H). Complete applications will be forwarded for approval by the director or his/her designee in the priority as outlined in sections (4)-(6). Upon approval, the department will send the request to the appropriate federal authorities.

(4) The department's J-1 Visa Waiver Program will give priority to those physicians in one (1) of the following specialties: Family Practice, General Practice, General Pediatrics, Obstetrics/Gynecology, or Psychiatry. If the department receives more than thirty (30) completed application packages between October 1 and November 30, application packages will be prioritized in the following order:

(A) Primary Care physicians will be prioritized before other specializations;

(B) Primary Care HPSA score of the location of the health care facility employing the physician. Higher HPSA scores will be prioritized before lower HPSA scores;

(C) The date the application package was received by the department. Applications received earlier will be prioritized before applications received later;

(D) In the event that there are fewer remaining waivers than applicants, and with all of those applicants having equal status in priority, remaining waiver(s) will be recommended by lottery.

(5) In addition to the eligible physicians set forth in section (4), waivers may be recommended for other specialties and subspecialties.

(A) Physicians trained in other specialties may be considered for recommendation for a J-1 Visa Waiver based on the following criteria:

1. Vacant slots must be available; and
2. The specialty physician's application must comply with all other requirements of the J-1 Visa Program.

(B) The number of specialty recommendations in any given program year will be determined by the number of available slots after all application packages for primary care physicians as outlined in section (4) are reviewed. If more application packages are received for specialists than the department has slots available, priority will be determined by Primary Care HPSA score of the location of the health care facility employing the physician. (i.e. higher Primary Care HPSA scores will be assigned higher priority.)

(6) If the department recommends less than thirty (30) physicians for J-1 Visa Waivers for application packages received between October 1 and November 30 of the current year, application packages will continue to be accepted, reviewed for completeness, and recommended in the order of the date they are received for any specialty until all available slots are filled.

(A) In the event that there are fewer remaining waivers than applicants, and with all of those applicants having equal status in priority, remaining waiver(s) will be recommended by lottery.

(7) It is the responsibility of the physician and the employer to meet Missouri's licensing and credentialing requirements as delineated by the Missouri Board of Healing Arts.

(8) A physician who is practicing under a J-1 visa in another state who wishes to practice in a HPSA in Missouri and obtain a J-1 visa waiver may do so only under the following conditions:

(A) The physician must complete the J-1 visa waiver application process in Missouri and obtain a Missouri medical license prior to commencing practice;

(B) The physician should make no plans for the transfer or to move personal possessions until the department has approved the request. The physician retains sole responsibility for notifying the employer of the intent to transfer, and payment of any financial penalty caused by a breach of contract, as determined by the employer; and

(C) All other J-1 visa waiver requirements remain in effect.

(9) A physician with a J-1 visa waiver who is practicing in Missouri and who wishes to transfer to another HPSA in Missouri may do so under the following conditions:

(A) At least sixty (60) days in advance of the proposed change, the physician must notify the department of the new practice site address, telephone number, site director, and the effective date of the proposed change;

(B) The reason for the transfer must be explained in the written notice;

(C) A new J-1 visa waiver employer contract must be submitted to the department prior to approval of the transfer; and

(D) The physician should make no plans for the transfer or moving of personal possessions until the department has issued written approval of the transfer. The physician retains sole responsibility for notifying the employer of the intent to transfer and payment of any financial penalty caused by a breach of contract, as determined by the original employer.

(10) The department is not responsible for exceptions to or interpretations of these policies which have occurred without the written approval of the director of the department or his/her designee.

(11) The department is not responsible for any practice arrangements or contractual obligations entered into by the physician prior to approval of a J-1 visa waiver request.

*AUTHORITY: section 191.411.1, RSMo [Supp. 2001] 2016. This rule was previously filed as 19 CSR 50-4.020. Emergency rule filed April 17, 1995, effective April 27, 1995, expired Aug. 24, 1995. Original rule filed April 17, 1995, effective Oct. 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency rescission and rule filed Sept. 17, 2019, effective Oct. 1, 2019, expires March 27, 2020. Rescinded and readopted: Filed Sept. 17, 2019.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

### **Division 25—Missouri State Public Health Laboratory Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

#### **PROPOSED AMENDMENT**

**19 CSR 25-30.011 General Provisions for the Determination of Blood, Breath, Saliva, or Urine Analysis and Drug Testing.** The department is amending sections (1), (3), and (4).

*PURPOSE: This amendment updates the statutory references to those statutes that are now applicable, removes the address and expands the records that are available from the department.*

(1) Only those laboratories or persons performing analysis of blood, breath, saliva, or urine for the determination of blood alcohol content, or of blood, saliva, or urine for the presence of drugs—at the direction of a law enforcement officer acting under the provisions of sections [577.020–577.041, RSMo, and sections 306.111–306.119] 577.001–577.041, RSMo—are subject to the rules in this chapter.

(3) The chemical analysis of a person's blood, breath, saliva, or urine conducted under the provisions of sections [577.020–577.041, RSMo, and sections 306.111–306.119] 577.001–577.041, RSMo, shall be performed by licensed medical personnel or by personnel possessing a valid permit issued by the department.

(4) Applications for permits and renewals of permits shall be made on forms [(see 19 CSR 25-30.021, 19 CSR 25-30.031, or 19 CSR 25-30.041)] available from the Breath Alcohol Program, Missouri State Public Health Laboratory [—Southeast Branch, 2875 James Boulevard, Poplar Bluff, MO 63901]. Forms are also available at <http://health.mo.gov/lab/breathalcohol/>. Requests for approval of instruments, methods, or training courses shall be made to the director, Missouri State Public Health Laboratory, c/o Breath Alcohol Program. **Requests for copies of permits, submitted maintenance records, submitted permit applications, and simulator certifications shall also be made to the director, Missouri State Public Health Laboratory, c/o Breath Alcohol Program.** Criteria and standards used for certification and approval purposes shall be provided upon request by the Missouri State Public

Health Laboratory.

*AUTHORITY: sections 192.006 [and 577.026, RSMo 2000, and sections 306.114, 306.117], 577.020, and 577.037, RSMo [Supp. 2011] 2016. This rule previously filed as 19 CSR 20-30.011. Original rule filed July 15, 1988, effective Sept. 29, 1988. Changed to 19 CSR 25-30.011 Jan. 1, 1995. Emergency amendment filed May 10, 2001, effective May 22, 2001, expired Nov. 17, 2001. Amended: Filed May 10, 2001, effective Oct. 30, 2001. Amended: Filed May 31, 2012, effective Dec. 30, 2012. Amended: Filed Oct. 1, 2019.*

*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 Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

### Division 25—Missouri State Public Health Laboratory Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine

#### PROPOSED AMENDMENT

**19 CSR 25-30.021 Type I Permit.** The department is amending the purpose, sections (2), (3), and the forms that follow the rule and deleting section (4).

*PURPOSE: This amendment updates the accreditation standard, clarifies the responsibilities of the laboratories and permittees, and updates the proficiency standard requirements for laboratories and permittees.*

*PURPOSE: This rule establishes the qualifications, duties, and responsibilities of a Type I permittee and the standards for laboratories in which Type I permittees perform testing.*

(2) An applicant for a Type I permit shall not be less than twenty-one (21) years of age and shall possess a baccalaureate degree in chemical, physical, or biological science from an accredited college or university [or shall have at least two (2) years of relevant analytical experience and the equivalent of at least two years of college-level education with at least half of the credit hours earned in the chemical, physical, or biological sciences]. The applicant shall also complete an application for a Type I permit, included herein.

(A) To perform analyses of blood, saliva, or urine for **drugs** or blood alcohol content, the [department shall send three (3) check specimens to the applicant for analysis. The applicant shall perform the analyses within the time set by the department. The results reported on the three (3) samples shall be within five percent (5%) of the true value. A second set of three (3) check samples shall be sent to the applicant if the results from the first set were unsatisfactory. If the results from the second set of check samples are unsatisfactory, the department shall return the application. Any further efforts

to meet this condition for completion of the application shall be made at the discretion of the department based on the nature of the problem; the ability of the applicant; and the facility, equipment, and methods that were employed.] applicant shall have performed a biennial forensic proficiency test provided by an outside company for each type of substance, alcohol, or drugs, for which a permit is requested. A copy of the proficiency test results achieved shall accompany the permit application.

(B) [Effective July 1, 2014, to perform analyses of blood, saliva, or urine for the presence of drugs, the applicant shall be an employee of a laboratory that holds a national accreditation through the College of American Pathologists (CAP), the American Board of Forensic Toxicologists (ABFT), or through the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/Lab). This accreditation shall include an annual forensic proficiency test on each biological matrix (blood, saliva, or urine) tested. A copy of the certification for each laboratory shall be supplied to the State Public Health Laboratory upon request.] If the applicant does not perform proficiency tests, the applicant may qualify for a permit to perform analysis of blood, saliva, or urine for blood alcohol content by satisfactorily analyzing three (3) check specimens provided from the department. The results reported on the three (3) samples shall be within five percent (5%) of the true value. A second set of three (3) check samples shall be sent to the applicant if the results from the first set were unsatisfactory. If the results from the second set of check samples are unsatisfactory, the department shall return the application. Any further efforts to meet this condition for completion of the application shall be made at the discretion of the department based on the nature of the problem; the ability of the applicant; and the facility, equipment, and methods that were employed. A copy of the check specimen results achieved shall accompany the permit application.

(3) [A Type I permittee] Laboratories wherein analyses are performed by Type I permit holders shall maintain complete records of testing, quality assurance data, logbooks, and other documentation related to the performance of tests as established under general standards of laboratory practice and chain-of-custody procedures.

(A) Laboratories wherein analyses are performed by Type I permit holders shall be subject to audits by the department regarding any and all records referenced herein.

(B) Laboratories that perform analyses of blood, saliva, or urine for the presence of drugs shall hold an accreditation through the American Board of Forensic Toxicologists (ABFT) or through an accreditation body that is a signatory of the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement (ILAC MRA). This accreditation shall include an annual forensic proficiency test on each biological matrix (blood, saliva, or urine) tested. A copy of the certification for each laboratory shall be supplied to the Missouri State Public Health Laboratory upon request.

[(4) All provisions of subsection (2)(A) of this rule shall apply for renewal of a permit authorizing the analysis of blood, saliva, or urine for blood alcohol content. A set of three (3) check samples shall be satisfactorily analyzed during the last year of the current permit, and the applicant shall complete an application for a Type I permit, included herein.]

[(5)](4) Type I permits issued prior to the effective date of this rule shall be considered valid under the conditions of this rule.

[(6)](5) Type I permit applications completed prior to the effective date of this rule shall be considered valid under the conditions of this rule.



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM  
**APPLICATION FOR TYPE I PERMIT**



THIS APPLICATION IS FOR:  NEW PERMIT  RENEWAL CURRENT PERMIT NUMBER AND EXPIRATION DATE

PRINT FULL NAME AGE TELEPHONE NUMBER ( )

SOCIAL SECURITY NUMBER A disclosure concerning your SSN number is available at: <http://www.health.mo.gov/lab/breathalcohol/>

ORGANIZATION EMAIL ADDRESS

BUSINESS ADDRESS (STREET CITY, STATE ZIP CODE)

DIRECTOR'S NAME TELEPHONE NUMBER ( )

ALCOHOL ANALYSIS:  BLOOD  URINE  SALIVA

DRUG ANALYSIS:  BLOOD  URINE  SALIVA

**FOR DRUG TESTING ONLY**  
PROVIDE NAME OF PROFICIENCY TESTING PROGRAM(S) YOUR FACILITY SUBSCRIBES TO

**EDUCATION**

COLLEGE OR UNIVERSITY	YEARS ATTENDED	HOURS QTRS/SEM.	MAJOR	MINOR	DEGREE	GRADUATED

**OTHER RELEVANT TRAINING**

COURSE OR PROGRAM TITLE	AGENCY OR INSTITUTION	DATES

**ANALYTICAL EXPERIENCE**

ORGANIZATION	DATES EMPLOYED

RESULTS OF SAMPLES FOR ANALYSIS:

**METHODS OF ANALYSIS USED**

**DRUGS**

Enzyme Immunoassay (EIA)  Gas Chromatography/Mass Spectrometry (GC/MS)  Fluorescence Polarization Immunoassay (FPIA)  Gas Chromatography (GC)  Enzyme-Linked Immunosorbent Assay (ELISA)  Other

Radiimmunoassay (RIA)  Thin Layer Chromatography (TLC)  High-Performance Liquid Chromatography (HPLC)  Liquid Chromatography/Mass Spectrometry (LC/MS)  Cloned Enzyme Donor Immunoassay (CEDIA)  Ultra-Violet/Visible Spectrophotometry (UV/Vis)

**ALCOHOL**

Gas or Liquid Chromatography  Other

SIGNATURE OF APPLICANT DATE

RETURN COMPLETED APPLICATION TO THE: Breath Alcohol Program, Missouri Department of Health and Senior Services, 1903 Northwood Drive, Suite #4, Poplar Bluff, MO 63901



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



**PERMIT**  
**TYPE 1**

\_\_\_\_\_ is hereby authorized to determine the content of \_\_\_\_\_  
(TYPE IN "ALCOHOL" OR "DRUGS" OR BOTH)

from a sample of \_\_\_\_\_ utilizing approved standard chemical methods.  
(TYPE IN "BLOOD," "SALIVA," OR "URINE")

Permit issued under the provisions of sections 577.001 through 577.041, RSMo.

DATE \_\_\_\_\_ DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER \_\_\_\_\_

EXPIRES \_\_\_\_\_ DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 580-1242 (5-19)

LAB-2 (5-19)



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



**PERMIT**  
**TYPE 1**

\_\_\_\_\_ is hereby authorized to determine the content of \_\_\_\_\_  
(TYPE IN "ALCOHOL" OR "DRUGS" OR BOTH)

from a sample of \_\_\_\_\_ utilizing approved standard chemical methods.  
(TYPE IN "BLOOD," "SALIVA," OR "URINE")

Permit issued under the provisions of sections 577.001 through 577.041, RSMo.

DATE \_\_\_\_\_ DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER \_\_\_\_\_

EXPIRES \_\_\_\_\_ DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 580-1242 (5-19)

LAB-2 (5-19)

*AUTHORITY:* sections 192.006 [and 577.026, RSMo 2000, and sections], 577.020, and 577.037, RSMo [Supp. 2011] 2016. This rule previously filed as 19 CSR 20-30.021. Original rule filed July 15, 1988, effective Sept. 29, 1988. Changed to 19 CSR 25-30.021 Jan. 1, 1995. Amended: Filed May 31, 2012, effective Dec. 30, 2012. Amended: Filed Oct. 1, 2019.

*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 Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

### **Division 25—Missouri State Public Health Laboratory Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

#### **PROPOSED AMENDMENT**

**19 CSR 25-30.031 Type II Permit.** The department is amending sections (7), and five (5) forms that follow the rule and deleting two (2) forms that follow the rule.

*PURPOSE:* This amendment removes two forms from the rule as well as removes the references to two instruments that are no longer used for evidential testing in Missouri.

*PURPOSE:* This rule establishes the qualifications, duties and responsibilities of a Type II permittee and establishes a maintenance report to be used for each of the approved breath analyzers in [19 CSR 20-30.050] **19 CSR 25-30.050**.

(7) For the maintenance checks referred to in sections (3)–(5) of this rule, the appropriate maintenance report form for the specific instrument being checked shall be used—

(C) When performing a maintenance check on the Intox EC/IR II, the report incorporated in the instrument software shall be used (see Report No. 3 included herein for example); **and**

*[(D) When performing a maintenance check on the CMI Intoxilyzer 5000, Report No. 4 included herein shall be used;]*

*[(E) When performing a maintenance check on the DataMaster, Report No. 6 included herein shall be used; and]*

*[(F)](D)* When performing a maintenance check on the Alco-Sensor IV with printer, Report No. 7 included herein shall be used.

(8) Maintenance report forms required in section (7) of this rule prior to the effective date of this rule and completed on maintenance checks before that date shall be considered valid under this rule. **Maintenance report forms completed on maintenance checks within ninety (90) days after the effective date of this rule shall be considered valid if the maintenance checks and maintenance report forms were completed in compliance with the rules in effect at the time the checks and forms were completed or the rules in effect immediately prior to the effective date of this rule.**



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM

**INTOX DMT MAINTENANCE REPORT**

REPORT #1

Complete this report at the time of the regular monthly preventive maintenance check (not to exceed 35 days).  
Complete this report whenever the instrument is serviced or repaired and whenever it is placed into service.  
Retain the original and send a copy within 15 days to the Breath Alcohol Program, DHSS.

INTOX DMT SN	NAME OF AGENCY	DATE OF INSPECTION
LOCATION OF INSTRUMENT (STREET AND CITY)		TIME OF INSPECTION

**CHECKLIST:** Place a mark on the line by each item if found to be satisfactory or is operating within established limits. (Write in observed values where determined). Unmarked items must be corrected before using instrument.

**DIAGNOSTIC RECORD**

DATE AND TIME _____	<input type="checkbox"/> DETECTOR
<input type="checkbox"/> PROGRAM	<input type="checkbox"/> FILTER 1
<input type="checkbox"/> SAMPLE CHAMBER _____	<input type="checkbox"/> FILTER 2
<input type="checkbox"/> BREATH TUBE _____	<input type="checkbox"/> FILTER 3
<input type="checkbox"/> PUMP	<input type="checkbox"/> INTERNAL STANDARD

**BREATH ANALYZER ACCURACY STANDARDS**

<input type="checkbox"/> SIMULATOR SOLUTION	<input type="checkbox"/> COMPRESSED ETHANOL-GAS MIXTURE
STANDARD SUPPLIER _____ LOT # _____	EXP. DATE _____
SIMULATOR TEMP (34°C ± 0.2°C) _____	SIM. SN _____ SIM. NIST EXP DATE _____
<input type="checkbox"/> CALIBRATION CHECK - (ONLY ONE STANDARD IS TO BE USED PER MAINTENANCE REPORT) Run three tests using a standard solution. All three tests must be within ±5% of the standard value and must have a spread of .005 or less. Mark the box corresponding to the standard solution being used.	
<input type="checkbox"/> 0.10% STANDARD - MUST READ BETWEEN 0.095% AND 0.105% INCLUSIVE	
<input type="checkbox"/> 0.08% STANDARD - MUST READ BETWEEN 0.076% AND 0.084% INCLUSIVE	
<input type="checkbox"/> 0.04% STANDARD - MUST READ BETWEEN 0.038% AND 0.042% INCLUSIVE	

TEST 1: _____	TEST 2: _____	TEST 3: _____
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PERFORM R.F.I. TEST

INDICATE THE NUMBER OF BREATH TEST IN THE FOLLOWING RANGES SINCE THE LAST MAINTENANCE REPORT:

REFUSALS	0-.04	.05-.09	.10-.14	.15-.19	OVER .19
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LIST ANY NEW PARTS AND DESCRIBE ANY ALTERATION OR MODIFICATION THAT WAS MADE TO RESTORE THE INSTRUMENT TO OPERATE SATISFACTORILY AND WITHIN ESTABLISHED LIMITS (USE OTHER SIDE IF NECESSARY):

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**INSPECTING OFFICER**

SIGNATURE	PRINT FULL NAME
TYPE II PERM.T NUMBER	EXPIRATION DATE
	TELEPHONE NUMBER ( )

RETURN COMPLETED REPORT TO THE Breath Alcohol Program, Missouri Department of Health and Senior Services by mail, fax, or email



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM

**INTOX EC/IR II MAINTENANCE REPORT**

REPORT #3

Complete this report at the time of the regular monthly preventive maintenance check (not to exceed 35 days).  
Complete this report whenever the instrument is serviced or repaired and whenever it is placed into service.  
Retain the original and send a copy within 15 days to the Breath Alcohol Program, DHSS.

INTOX EC/IR II SN	NAME OF AGENCY	DATE OF INSPECTION
LOCATION OF INSTRUMENT (STREET AND CITY)		TIME OF INSPECTION

**CHECKLIST:** Place a mark in the box by each item if found to be satisfactory or is operating within established limits. (Write in observed values where determined). Unmarked items must be corrected before using instrument.

**DIAGNOSTIC RECORD**

<input type="checkbox"/> BLANK CHECK	<input type="checkbox"/> CO2 CHECK
<input type="checkbox"/> FC 1 TEMP	<input type="checkbox"/> FLOW CHECK
<input type="checkbox"/> SRC TEMP	<input type="checkbox"/> FCB CHECK
<input type="checkbox"/> DET TEMP	<input type="checkbox"/> CRC COMP CHECK
<input type="checkbox"/> BT TEMP	<input type="checkbox"/> CRC CAL CHECK
<input type="checkbox"/> STD 2 TEMP	<input type="checkbox"/> PRINT TEST
<input type="checkbox"/> ETH CHECK	DATE AND TIME _____

**BREATH ANALYZER ACCURACY STANDARDS**

<input type="checkbox"/> SIMULATOR SOLUTION	<input type="checkbox"/> COMPRESSED ETHANOL-GAS MIXTURE
STANDARD SUPPLIER _____	LOT # _____ EXP. DATE _____
SIMULATOR TEMP (34°C ± 0.2°C) _____	SIM. SN _____ SIM. NIST EXP DATE _____

**CALIBRATION CHECK - (ONLY ONE STANDARD IS TO BE USED PER MAINTENANCE REPORT)**  
Run three tests using a standard solution. All three tests must be within ±5% of the standard value and must have a spread of .005 or less. Mark the box corresponding to the standard solution being used.

0.10% STANDARD - MUST READ BETWEEN 0.095% AND 0.105% INCLUSIVE

0.08% STANDARD - MUST READ BETWEEN 0.076% AND 0.084% INCLUSIVE

0.04% STANDARD - MUST READ BETWEEN 0.038% AND 0.042% INCLUSIVE

TEST 1 ←	TEST 2 ←	TEST 3 ←
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**INDICATE THE NUMBER OF BREATH TEST IN THE FOLLOWING RANGES SINCE THE LAST MAINTENANCE REPORT:**

REFUSALS	0-.04	.05-.09	.10-.14	.15-.19	OVER .19
----------	-------	---------	---------	---------	----------

LIST ANY NEW PARTS AND DESCRIBE ANY ALTERATION OR MODIFICATION THAT WAS MADE TO RESTORE THE INSTRUMENT TO OPERATE SATISFACTORILY AND WITHIN ESTABLISHED LIMITS (USE OTHERS IF NECESSARY):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INSPECTING OFFICER**

SIGNATURE	PRINTED NAME
TYPE II PERMIT NUMBER	EXPIRATION DATE
	TELEPHONE NUMBER ( )

**RETURN COMPLETED REPORT TO THE:** Breath Alcohol Program, Missouri Department of Health and Senior Services  
by mail, fax, or email.





MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
**ALCO-SENSOR IV WITH PRINTER MAINTENANCE REPORT**

REPORT #7

Complete this report in duplicate at the time of the regular monthly preventative maintenance check, and whenever instrument is repaired. Send copy to Department of Health and Senior Services; retain original in department file.

ALCO SENSOR IV SN _____	NAME OF AGENCY _____	DATE OF INSPECTION _____
LOCATION OF INSTRUMENT* (STREET AND CITY) _____		TIME OF INSPECTION _____

**CHECKLIST:** Place a mark in the box by each item if found to be satisfactory or if operating within established limits. (Write in observed values where determined.) Unmarked items must be corrected before using instrument.

- DIGITAL READOUT (ALL ELEMENTS OPERATIONAL)
- TEMPERATURE OF ALCO SENSOR (10°C - 40°C)
- PRINTER WORKING PROPERLY
- TIME AND DATE DISPLAYING PROPERLY

**BREATH ALCOHOL ACCURACY STANDARDS**

- SIMULATOR SOLUTION
- COMPRESSED ETHANOL-GAS MIXTURE

STANDARD SUPPLIER \_\_\_\_\_ LOT # \_\_\_\_\_ EXP. DATE \_\_\_\_\_

SIMULATOR TEMPERATURE (34°C ± 0.2°C) \_\_\_\_\_ SIM. SN \_\_\_\_\_ SIM. NIST EXP DATE \_\_\_\_\_

CALIBRATION CHECK - (ONLY ONE STANDARD IS TO BE USED PER MAINTENANCE REPORT)

Run three tests using a standard solution. All three tests must be within ±5% of the standard value and must have a spread of .005 or less. Check the box corresponding to the standard solution being used. (PRINTOUT ATTACHED)

- 0.100% STANDARD - MUST READ BETWEEN 0.095% and 0.105% INCLUSIVE
- 0.080% STANDARD - MUST READ BETWEEN 0.076% and 0.084% INCLUSIVE
- 0.040% STANDARD - MUST READ BETWEEN 0.038% and 0.042% INCLUSIVE

TEST 1 ←                                      TEST 2 ←                                      TEST 3 ←

- RFI DETECTOR OPERATING

INDICATE THE NUMBER OF BREATH TESTS IN THE FOLLOWING RANGES SINCE THE LAST MAINTENANCE REPORT: (DO NOT INCLUDE SELF-ADMINISTERED TESTS)

REFUSALS	(0-.04)	(.05-.09)	(.10-.14)	(.15-.19)	(OVER .19)
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List any new parts and describe any alteration or modification that was made to restore the instrument to operate satisfactorily and within established limits (use other side if necessary).

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**INSPECTING OFFICER**

SIGNATURE _____	PRINT NAME _____
TYPE II PERMIT NUMBER-EXPIRATION DATE _____	TELEPHONE NUMBER _____

Return completed report to the: Breath Alcohol Program, MO Department of Health and Senior Services, Southeast District Office by mail, fax, or email.



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM



**APPLICATION FOR TYPE II PERMIT FOR OPERATION OF BREATH ALCOHOL ANALYZERS**

THIS APPLICATION IS FOR <input type="checkbox"/> NEW PERMIT <input type="checkbox"/> RENEWAL		CURRENT PERMIT NUMBER AND EXPIRATION DATE	
PRINT FULL NAME		TITLE	AGE
SOCIAL SECURITY NUMBER	A disclosure concerning your SSN number is available at: <a href="http://www.health.mo.gov/lab/breathalcohol/">http://www.health.mo.gov/lab/breathalcohol/</a>		
DEPARTMENT OR TROOP	TELEPHONE (    )		
BUSINESS ADDRESS (STREET, CITY, STATE, ZIP CODE)			
EMAIL ADDRESS			

**LIST ALL ORIGINAL TRAINING COURSES FOR OPERATION OF BREATH ANALYZERS**  
(Also, please place a checkmark beside ALL breath analyzer(s) for which you are requesting a permit.)

DATES OF COURSE	LOCATION OF COURSE	COURSE LENGTH (HRS.)	NAME & MODEL OF BREATH ANALYZER	MULTIPLE INSTRUMENTS FOR WHICH YOU REQUEST	NAME OF INSTRUCTOR
				<input type="checkbox"/>	
				<input type="checkbox"/>	
				<input type="checkbox"/>	
				<input type="checkbox"/>	

List the manufacturer and name of instruments for which you are currently performing maintenance reports on and the number of maintenance reports performed on EACH type in the last year.

MANUFACTURER AND NAME OF INSTRUMENT	NUMBER OF MAINTENANCE REPORTS	NUMBER OF SUBJECT TESTS
1.		
2.		
3.		

When adding a new instrument, you receive a new two (2) year permit. Therefore, normal renewal procedures apply for the instrument(s) on your current permit that you wish to transfer to the new permit. Disregarding these renewal procedures will result in a new permit for the new instrument only.

To renew a Type II Permit, the applicant shall have completed two (2) Maintenance Reports and shall have performed at least ten (10) tests on drinking subjects in the past year on each instrument for which renewal is requested. If these conditions are not met, or the permit has expired for more than thirty (30) days, the applicant shall perform two (2) Maintenance Reports and five (5) self-administered tests for each breath analyzer for which renewal is requested. Copies of the Maintenance Reports along with the Operational checklists and printouts for the five (5) self-administered tests shall accompany the application for renewal.

SIGNATURE OF APPLICANT	DATE

**RETURN COMPLETED APPLICATION TO THE:**    Breath Alcohol Program, Missouri Department of Health and Senior Services  
1903 Northwood Drive, Suite #4  
Poplar Bluff, MO 63901



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



**PERMIT  
TYPE II**

is hereby authorized to instruct and supervise operators, train instructors, inspect, calibrate, perform field service and repairs, and operate the following breath analyzer(s):

for the determination of the alcoholic content of blood from a sample of expired air. Permit issued under the provisions of sections 577.001 through 577.041, RSMo.

DATE \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER \_\_\_\_\_

EXPIRES \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 580-0771 (9-18)

LAB-4 (9-18)



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



**PERMIT  
TYPE II**

is hereby authorized to instruct and supervise operators, train instructors, inspect, calibrate, perform field service and repairs, and operate the following breath analyzer(s):

for the determination of the alcoholic content of blood from a sample of expired air. Permit issued under the provisions of sections 577.001 through 577.041, RSMo.

DATE \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER \_\_\_\_\_

EXPIRES \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 580-0771 (9-18)

LAB-4 (9-18)

*AUTHORITY:* sections 192.006 [and 577.026, RSMo 2000, and sections 306.114, 306.117], 577.020, and 577.037, RSMo [Supp. 2013] 2016. This rule previously filed as 19 CSR 20-30.031. Original rule filed July 15, 1988, effective Sept. 29, 1988. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Oct. 1, 2019.

*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 Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

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

### **Division 25—Missouri State Public Health Laboratory Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

#### **PROPOSED AMENDMENT**

**19 CSR 25-30.041 Type III Permit.** The department is amending the two forms that follow the rule.

*PURPOSE:* This amendment updates the permit and application forms that follow the rule.



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM

**APPLICATION FOR TYPE III PERMIT FOR OPERATION OF BREATH ALCOHOL ANALYZERS**

THIS APPLICATION IS FOR  
 NEW PERMIT     RENEWAL

CURRENT PERMIT NUMBER AND EXPIRATION DATE \_\_\_\_\_ EMAIL ADDRESS FOR COMPLETED PERMIT \_\_\_\_\_

PRINT FULL NAME \_\_\_\_\_ TITLE \_\_\_\_\_ AGE \_\_\_\_\_

DEPARTMENT OR TROOP \_\_\_\_\_ TELEPHONE ( ) \_\_\_\_\_

BUSINESS ADDRESS (SCHOOL, CITY, STATE, ZIP CODE) \_\_\_\_\_

**LIST ALL ORIGINAL TRAINING COURSES FOR OPERATION OF BREATH ANALYZERS.**  
(Also, please be sure an  is placed beside ALL breath analyzer(s) for which you are requesting a permit.)

DATES OF COURSE	LOCATION OF COURSE	COURSE LENGTH (HRS.)	NAME & MODEL OF BREATH ANALYZER	CHECK ALL MODEL INSTRUMENTS FOR WHICH YOU ARE REQUESTING A PERMIT	NAME OF INSTRUCTOR
				<input type="checkbox"/>	
				<input type="checkbox"/>	
				<input type="checkbox"/>	

**IF THIS IS AN APPLICATION FOR A NEW PERMIT, INCLUDE A COPY OF APPLICANT'S EXAM**

**IF THIS IS A RENEWAL APPLICATION, AND/OR YOU ARE ADDING A NEW INSTRUMENT TO YOUR CURRENT PERMIT, READ THE FOLLOWING INSTRUCTIONS AND PROVIDE THE FOLLOWING ADDITIONAL INFORMATION:**

When adding a new instrument, you receive a new two (2) year permit. Therefore, normal renewal procedures apply for the instrument(s) on your current permit that you wish to transfer to the new permit. Disregarding these renewal procedures will result in a new permit for the new instrument only.

To renew a Type III Permit, the applicant shall have performed at least ten (10) tests on drinking subjects in the past year on each instrument for which renewal is requested. If this condition is not met or the permit has expired for more than thirty (30) days, the applicant shall complete a two (2) hour refresher-training course under the supervision of an individual with a valid Type II Permit. The refresher-training course shall include the performance of five (5) self-administered tests for each breath analyzer for which renewal is requested. Copies of the completed operational checklists and printouts for the self-administered tests shall accompany the renewal application.

NAME OF INSTRUMENT	NUMBER OF SUBJECT TESTS	NUMBER OF SELF-TESTS	REFRESHER TRAINING COMPLETE
1. _____			<input type="checkbox"/>
2. _____			<input type="checkbox"/>
3. _____			<input type="checkbox"/>

SIGNATURE OF APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_

**RECOMMENDATION OF SUPERVISOR TYPE II**

I certify that \_\_\_\_\_ is qualified to operate the breath analyzer instrument(s) as requested in this application.  
PRINT TYPE III APPLICANT FULL NAME

PRINT TYPE II APPLICANT FULL NAME \_\_\_\_\_ BUSINESS PHONE ( ) \_\_\_\_\_

SIGNATURE OF TYPE II PERMITTEE \_\_\_\_\_ PERMIT NUMBER/EXPIRATION DATE \_\_\_\_\_

RETURN COMPLETED APPLICATION TO THE: Breath Alcohol Program, MO Department of Health and Senior Services, Southeast District Office  
19C3 Northwood Drive, Suite #4, Poplar Bluff, MO 63901



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



**PERMIT  
TYPE III**

.....  
is hereby authorized to operate the following breath analyzer(s):

.....  
For the determination of the alcoholic content of blood from a sample of expired air. Permit issued under the provisions of sections 577.001 through 577.041, RSMo.

DATE .....

.....  
DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER .....

EXPIRES .....

.....  
DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 589 (17) 3-19

LAB 1111 19



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



**PERMIT  
TYPE III**

.....  
is hereby authorized to operate the following breath analyzer(s):

.....  
For the determination of the alcoholic content of blood from a sample of expired air. Permit issued under the provisions of sections 577.001 through 577.041, RSMo.

DATE .....

.....  
DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER .....

EXPIRES .....

.....  
DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 589 (17) 3-19

LAB 1111 19

*AUTHORITY: sections 192.006 [and 577.026, RSMo 2000, and sections 306.114, 306.117], 577.020, and 577.037, RSMo [Supp. 2011] 2016. This rule previously filed as 19 CSR 20-30.041. Original rule filed July 15, 1988, effective Sept. 29, 1988. Amended: Filed March 15, 1996, effective Aug. 30, 1996. Changed to 19 CSR 25-30.041 Jan. 1, 1995. Emergency amendment filed June 19, 1998, effective July 1, 1998, expired Feb. 25, 1999. Amended: Filed June 19, 1998, effective Jan. 30, 1999. Amended: Filed May 31, 2012, effective Dec. 30, 2012. Amended: Filed Oct. 1, 2019.*

*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 Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

**Division 25—Missouri State Public Health Laboratory  
Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

**PROPOSED AMENDMENT**

**19 CSR 25-30.050 Approved Breath Analyzers.** The department is amending section (1).

*PURPOSE: This amendment removes two instruments that are no longer used for evidential testing in Missouri.*

(1) Approved breath analyzers are—

NAME OR ITEM	MANUFACTURER OR SUPPLIER
Alco-Sensor IV with printer [and], Intox EC/IR II, and	Intoximeters, Inc. [,] [St. Louis, MO]
[BAC DataMaster and] Intox DMT [(formerly DataMaster DMT)]	[Intoximeters, Inc., St. Louis, MO or National Patent Analytical Systems, Inc., Mansfield, OH]
[Intoxilyzer, Model 5000 and] Intoxilyzer, Model 8000	CMI/MPH, Operations of MPD, Inc. [,] [Owensboro, KY]

*AUTHORITY: sections 192.006 [and 577.026, RSMo 2000, and sections 306.114, 306.117], 577.020, and 577.037, RSMo [Supp. 2013] 2016. This rule was previously filed as 13 CSR 50-140.050 and 19 CSR 20-30.050. Original rule filed Oct. 1, 1965, effective Oct. 13, 1965. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 1, 2019.*

*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 Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

**Division 25—Missouri State Public Health Laboratory  
Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

**PROPOSED AMENDMENT**

**19 CSR 25-30.051 Breath Analyzer Calibration and Accuracy Verification Standards.** The department is amending sections (3), (4), and (6), deleting section (7), and renumbering section (8).

*PURPOSE: This amendment further defines the required certification of breath alcohol simulators, the reporting of simulator certification on maintenance checks, adds a new supplier of compressed gas mixtures, and removes a reference to restrictions that only applied to instruments no longer used for evidential breath alcohol testing in Missouri.*

- (3) Approved suppliers of standard simulator solutions are—
  - (A) Alcohol Countermeasure Systems, Inc. [Aurora, CO 80010]
  - (B) Guth Laboratories, Inc. [Harrisburg, PA 17111-4511]
  - (C) RepCo Marketing, Inc. [Raleigh, NC 27604]
  - (D) Draeger Safety, Inc. [Durango, CO 81303-7911]

(4) Any breath alcohol simulator used in the verification or calibration of evidential breath analyzers with the standard simulator solutions referred to in sections (2) and (3) of this rule shall be certified against a National Institute of Standards and Technology (NIST) traceable reference thermometer or thermocouple between January 1, 2013, and December 31, 2013, and annually thereafter. **Proof that the simulator is in certification shall be shown by entry of the simulator serial number and expiration date of the certification period on the maintenance report required under 19 CSR 25-30.031, or by certification report as issued by the department.**

- (6) Approved suppliers of standard compressed ethanol-gas mixtures are—
  - (A) Intoximeters, Inc. [St. Louis, MO 63114]
  - (B) CMI, Inc. [Owensboro, KY 42303]
  - (C) Draeger Safety Diagnostic, Inc. [Durango, CO 81303-7911]
  - (D) ILMO Products Company, Inc. [Jacksonville, IL 62651-0790]
  - (E) Guth Laboratories, Inc.

*[(7) Compressed ethanol-gas mixtures shall only be used to verify and calibrate evidential breath analyzers listing compressed ethanol gas mixtures as an option during the maintenance check (see 19 CSR 25-30.031).]*

*[(8)](7) Maintenance reports completed prior to the effective date of this rule shall be considered valid under this rule if the maintenance*

report was completed in compliance with the rules in effect at the time the maintenance was conducted.

*AUTHORITY: sections 192.006 [and 577.026, RSMo 2000, and sections], 577.020, and 577.037, RSMo [Supp. 2013] 2016. Emergency rule filed Aug. 22, 1997, effective Sept. 1, 1997, expired Feb. 27, 1998. Original rule filed Aug. 25, 1997, effective Feb. 28, 1998. Emergency rescission and emergency rule filed April 17, 1998, effective May 4, 1998, expired Oct. 30, 1998. Rescinded and readopted: Filed May 1, 1998, effective Oct. 30, 1998. Amended: Filed Jan. 15, 2004, effective July 30, 2004. Amended: Filed May 31, 2012, effective Dec. 30, 2012. Amended: Filed Sept. 4, 2013, effective Feb. 28, 2014. Amended: Filed Oct. 1, 2019.*

*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 Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

### **Division 25—Missouri State Public Health Laboratory Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

#### **PROPOSED AMENDMENT**

#### **19 CSR 25-30.060 Operating Procedures for Breath Analyzers.**

The department is amending sections (9), (10), and four (4) forms that follow the rule, and deleting sections (1) and (2) and two (2) forms that follow the rule, and renumbering sections as needed.

*PURPOSE: This amendment removes the references to two (2) instruments that are no longer used for evidential testing in Missouri.*

*[(1) When using Intoxilyzer, Model 5000, the procedures on the form included herein shall be performed and the form shall be completed (see form #5).*

*(2) When using DataMaster, the procedures on the form included herein shall be performed and the form shall be completed (see form #7).]*

*[(3)](1) When using Alco-Sensor IV with printer, the procedures on the form included herein shall be performed and the form shall be completed (see form #8).*

*[(4)](2) When using Intox DMT, the procedures on the form incorporated within the instrument software shall be performed and the form shall be completed (see form #11 included herein for example).*

*[(5)](3) When using Intoxilyzer, Model 8000, the procedures on the form incorporated within the instrument software shall be performed and the form shall be completed (see form #12 included herein for example).*

*[(6)](4) When using Intox EC/IR II, the procedures on the form incorporated within the instrument software shall be performed and the form shall be completed (see form #13 included herein for example).*

*[(7)](5) The fifteen- (15-) minute observation of the subject, which is the second procedure on the forms in sections (1)–(6) of this rule, shall be done by a current Type II or Type III permit holder. The observation period is intended to ensure that any alcohol in a test subject's mouth has time to dissipate before a breath sample is taken so that mouth alcohol does not affect the accuracy of a test result. A fifteen- (15-) minute observation period is deemed to be sufficient for the dissipation of any mouth alcohol to a reasonable degree of scientific certainty.*

*[(8)](6) Results of subject tests shall be recorded on the operational checklist in a manner consistent with the breath analyzer's digital display and/or printout. For example, if the display and/or the printout reads one hundred forty-nine thousandths percent (0.149%), the result shall be recorded as one hundred forty nine thousandths percent (0.149%).*

*[(9)](7) Operational Checklists and breath tests completed prior to the effective date of this rule shall be considered valid if such tests were completed in compliance with the rules in effect at the time the test was conducted. **Operational Checklists and breath tests completed within ninety (90) days after the effective date of this rule shall be considered valid if such tests were completed in compliance with the rules in effect at the time the tests were conducted or the rules in effect immediately prior to the effective date of this rule.***

*[(10)](8) When using the Alco-Sensor IV with printer, the use of the Manual button shall not be allowed to obtain a breath alcohol test result from a subject. *[Any subject breath test conducted with the Manual button prior to the effective date of this rule shall be considered valid under this rule if such tests were completed in compliance with the rules in effect at the time the test was conducted.]**



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
**BLOOD ALCOHOL TEST REPORT - ALCO-SENSOR IV  
WITH PRINTER**

FORM #8

FORM #8

SUBJECT'S NAME	DATE OF TEST
<b>OPERATIONAL CHECKLIST: ALCO-SENSOR IV WITH PRINTER</b>	
ALCO-SENSOR SERIAL NO.	LOCATION OF INSTRUMENT
TIME OBSERVATION PERIOD STARTED	TIME OF TEST

SUBJECT'S NAME	DATE OF TEST
<b>OPERATIONAL CHECKLIST: ALCO-SENSOR IV WITH PRINTER</b>	
ALCO-SENSOR SERIAL NO.	LOCATION OF INSTRUMENT
TIME OBSERVATION PERIOD STARTED	TIME OF TEST

- 1. Examination of mouth conducted. If any substance is observed or indicated to be present, the substance observed or indicated must be removed prior to starting the 15 minute observation period.
- 2. Subject observed for at least 15 minutes by \_\_\_\_\_  
No smoking, oral intake or vomiting during this time; if vomiting occurs, start over with 15 minute observation period.
- 3. Make sure printer is connected to Alco-Sensor IV.
- 4. Turn printer on.
- 5. Insert mouthpiece into Alco-Sensor IV.
- 6. Observe temperature display. make sure temperature reading is between 10°C and 40°C.
- 7. When "TEST" is displayed on Alco-Sensor IV, take subject breath sample.
- 8. When "SET" is displayed on Alco-Sensor IV, press SET button.
- 9. When printer has completed printing test result, tear off tape and fill in subject and officer information.
- 10. Press red button to eject mouthpiece.
- 11. Attach printout to this report.

- 1. Examination of mouth conducted. If any substance is observed or indicated to be present, the substance observed or indicated must be removed prior to starting the 15 minute observation period.
- 2. Subject observed for at least 15 minutes by \_\_\_\_\_  
No smoking, oral intake or vomiting during this time; if vomiting occurs, start over with 15 minute observation period.
- 3. Make sure printer is connected to Alco-Sensor IV.
- 4. Turn printer on.
- 5. Insert mouthpiece into Alco-Sensor IV.
- 6. Observe temperature display. make sure temperature reading is between 10°C and 40°C.
- 7. When "TEST" is displayed on Alco-Sensor IV, take subject breath sample.
- 8. When "SET" is displayed on Alco-Sensor IV, press SET button.
- 9. When printer has completed printing test result, tear off tape and fill in subject and officer information.
- 10. Press red button to eject mouthpiece.
- 11. Attach printout to this report.

**CERTIFICATION BY OPERATOR**

As set forth in the rules promulgated by the Department of Health and Senior Services related to the determination of blood alcohol by breath analysis, I certify that:

- 1. There was no deviation from the procedure approved by the department.
- 2. To the best of my knowledge the instrument was functioning properly.
- 3. I am authorized to operate the instrument.

**CERTIFICATION BY OPERATOR**

As set forth in the rules promulgated by the Department of Health and Senior Services related to the determination of blood alcohol by breath analysis, I certify that:

- 1. There was no deviation from the procedure approved by the department.
- 2. To the best of my knowledge the instrument was functioning properly.
- 3. I am authorized to operate the instrument.

NAME OF OPERATOR	PERMIT NO.	EXPIRATION DATE
NAME OF OBSERVER	OBSERVER PERMIT NO.	EXPIRATION DATE
WITNESS (IF ANY)	DATE	

NAME OF OPERATOR	PERMIT NO.	EXPIRATION DATE
NAME OF OBSERVER	OBSERVER PERMIT NO.	EXPIRATION DATE
WITNESS (IF ANY)	DATE	



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
**BLOOD ALCOHOL TEST REPORT - INTOX DMT**

FORM #11

LOCATION OF INSTRUMENT	INSTRUMENT SERIAL NUMBER	DATE OF TEST	TIME OBSERVATION PERIOD STARTED	TIME OF TEST
SUBJECT NAME		DATE OF BIRTH		
SUBJECT DRIVER'S LICENSE NUMBER		STATE		
ARRESTING OFFICER		ARRESTING OFFICER ID		
OPERATOR		OPERATOR PERMIT	PERMIT EXP DATE	
OBSERVER		OBSERVER PERMIT	PERMIT EXP DATE	

**OPERATIONAL CHECKLIST: INTOX DMT**

- 1. Examination of mouth conducted. If any substance is observed or indicated to be present, the substance observed or indicated must be removed prior to starting the 15 minute observation period.
- 2. Subject observed for at least 15 minutes by \_\_\_\_\_.  
No smoking, oral intake or vomiting during this time; if vomiting occurs, start over with the 15 minute observation period.
- 3. Assure that the power switch is ON and the screen is displaying "READY <PUSH RUN>".
- 4. Press the Run button on the display screen.
- 5. Enter subject and officer information.
- 6. When display reads "Please Blow" and gives audible beep, insert mouthpiece and take the subject's breath sample.

**SUBJECT TEST RESULTS**

COMMENTS

**CERTIFICATION BY OPERATOR** BAC

As set forth in the rules promulgated by the Department of Health and Senior Services related to the determination of blood alcohol by breath analysis, I certify that:

- 1. There was no deviation from the procedure approved by the department.
- 2. To the best of my knowledge the instrument was functioning properly.
- 3. I am authorized to operate the instrument.

SIGNATURE OF OPERATOR	DATE
WITNESSED BY	DATE



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
**BLOOD ALCOHOL TEST REPORT – INTOXILYZER 8000**

FORM #12

LOCATION OF INSTRUMENT	INSTRUMENT SERIAL NUMBER	DATE OF TEST	TIME OBSERVATION PERIOD STARTED	TIME OF TEST
SUBJECT NAME			DATE OF BIRTH	
SUBJECT DRIVER'S LICENSE NUMBER			STATE	
ARRESTING OFFICER		ARRESTING OFFICER ID		
OPERATOR	OPERATOR PERMIT	PERMIT EXPIRATION DATE		
OBSERVER	OBSERVER PERMIT	PERMIT EXPIRATION DATE		

**OPERATIONAL CHECKLIST: INTOXILYZER 8000**

- 1. Examination of mouth conducted. If any substance is observed or indicated to be present, the substance observed or indicated must be removed prior to starting the 15 minute observation period.
- 2. Subject observed for at least 15 minutes by \_\_\_\_\_  
No smoking, oral intake or vomiting during this time; if vomiting occurs, start over with the 15 minute observation period.
- 3. Assure that the power switch is ON and the screen is displaying "Ready Mode".
- 4. Press the START TEST button.
- 5. Enter the subject and officer information.
- 6. When display reads "Please Blow Until Tone Stops/R", insert mouthpiece and take the subject's breath sample.

**SUBJECT TEST RESULTS**

--	--

COMMENTS

--	--

**CERTIFICATION BY OPERATOR**

BAC

As set forth in the rules promulgated by the Department of Health and Senior Services related to the determination of blood alcohol by breath analysis, I certify that:

- 1. There was no deviation from the procedure approved by the department.
- 2. To the best of my knowledge the instrument was functioning properly.
- 3. I am authorized to operate the instrument.

SIGNATURE OF OPERATOR	DATE
-----------------------	------

WITNESS (IF ANY)	DATE
------------------	------



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
**BLOOD ALCOHOL TEST REPORT - INTOX EC/IR II**

FORM #13

LOCATION OF INSTRUMENT	INSTRUMENT SERIAL NUMBER	DATE OF TEST	TIME OBSERVATION PERIOD STARTED	TIME OF TEST
SUBJECT NAME		DATE OF BIRTH		
SUBJECT DRIVER'S LICENSE NUMBER		STATE		
ARRESTING OFFICER	ARRESTING OFFICER ID			
OPERATOR	OPERATOR PERMIT	PERMIT EXP DATE		
OBSERVER	OBSERVER PERMIT	PERMIT EXP DATE		

**OPERATIONAL CHECKLIST: INTOX EC/IR II**

- 1. Examination of mouth conducted. If any substance is observed or indicated to be present, the substance observed or indicated must be removed prior to starting the 15 minute observation period.
- 2. Subject observed for at least 15 minutes by \_\_\_\_\_  
No smoking, oral intake or vomiting during this time; if vomiting occurs, start over with the 15 minute observation period.
- 3. Assure that the power switch is ON and the screen is displaying "PRESS ENTER TO START".
- 4. Press the Enter button.
- 5. Enter subject and officer information.
- 6. When display reads "Please Blow/R", and gives audible beep, insert mouthpiece and take the subject's breath sample.

**SUBJECT TEST RESULTS**

Blank area for subject test results.

COMMENTS

Blank area for comments.

**CERTIFICATION BY OPERATOR**

BAC

As set forth in the rules promulgated by the Department of Health and Senior Services related to the determination of blood alcohol by breath analysis, I certify that:

- 1. There was no deviation from the procedure approved by the department.
- 2. To the best of my knowledge the instrument was functioning properly.
- 3. I am authorized to operate the instrument.

SIGNATURE OF OPERATOR

DATE

WITNESSED BY

DATE

*AUTHORITY: sections 192.006 [and 577.026, RSMo 2000, and sections 306.114, 306.117], 577.020, and 577.037, RSMo [Supp. 2013] 2016. This rule was previously filed as 13 CSR 50-140.060 and 19 CSR 20-30.060. Original rule filed July 11, 1979, effective Oct. 12, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 1, 2019.*

*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 Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

### **Division 25—Missouri State Public Health Laboratory Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

#### **PROPOSED AMENDMENT**

**19 CSR 25-30.070 Approval of Methods for the [Determination of Blood Alcohol Content From Samples of Blood, Saliva, or Urine] Analysis of Blood, Saliva, and Urine for the Determination of Blood Alcohol Content or the Presence of Drugs.** The department is amending the title, purpose, and sections (1), (2), and (3) and adding new sections (2), (3), (5), and (6), and renumbering as needed.

*PURPOSE: This amendment combines two similar rules and updates the statutory references and analytical methodologies that are now applicable.*

*PURPOSE: This rule establishes the methods and analytical principles [by which] approved for the determination of blood alcohol content or the presence of drugs from samples of blood, urine, or saliva [are approved].*

(1) Samples of blood, saliva, or urine shall be collected in accordance with the provisions of sections [577.029, and 306.111–306.119] 577.001–577.041, RSMo, and a sufficient volume of sample shall be collected to provide for duplicate testing.

(2) The laboratory in which these analyses are performed shall have a director who shall assume full responsibility for the accuracy of tests and reports.

(3) An individual shall have a valid Type I permit in order to perform analyses of blood, saliva, and urine for the presence of drugs.

[(2)](4) Methods based on the following analytical principles are approved for the determination of blood alcohol content from a sample of blood, saliva, or urine:

(A) Chromatography[ic identification and quantization of alcohols], in liquid or vapor phase;

(B) Spectrophotometry;[ic or colorimetric measurement of the conversion of alcohol to acetaldehyde by alcohol-dehydrogenase; or]

(C) [The quantitative determination of the reduction of dichromate in acid solution by ethanol.] Colorimetry; or

(D) The quantitative determination of the reduction of dichromate in acid solution by ethanol.

(5) Methods based on the following analytical principles are approved for the analysis of blood, saliva, and urine for the presence of drugs:

(A) Chromatography, in liquid or vapor phase;

(B) Spectrophotometry;

(C) Spectrometry; or

(D) Immunoassay.

(6) All initial testing for the presence of drugs other than alcohol producing positive results shall be confirmed by a method employing mass spectrometry (MS).

[(3)](7) Blood, saliva, and urine tests for the determination of blood alcohol content or the presence of drugs performed prior to the effective date of this rule shall be considered valid under this rule if such tests were completed in compliance with the rules in effect at the time the test was conducted.

*AUTHORITY: sections 192.006 [and 577.026, RSMo 2000, and sections 306.114, 306.117], 577.020, and 577.037, RSMo [Supp. 2011] 2016. This rule previously filed as 19 CSR 20-30.070. Emergency rule filed May 21, 1987, effective May 31, 1987 expired Sept. 28, 1987. Original rule filed May 21, 1987, effective Aug. 27, 1987. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 1, 2019.*

*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 Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

### **Division 25—Missouri State Public Health Laboratory Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

#### **PROPOSED RESCISSION**

**19 CSR 25-30.080 Approval of Methods for the Analysis of Blood, Saliva, and Urine for the Presence of Drugs.** This rule established the approved methods for the analysis of blood, saliva, and urine for the presence of drugs. The department is rescinding this rule.

*PURPOSE: This rule is being rescinded as relevant portions of this rule have been merged with 19 CSR 25-30.070.*

*AUTHORITY: sections 192.006 and 577.026, RSMo 2000, and sections 306.114, 306.117, 577.020, 577.037, RSMo Supp. 2011. This rule previously filed as 19 CSR 20-30.080. Original rule filed July 15, 1988, effective Sept. 29, 1988. Changed to 19 CSR 20-30.080 Jan. 1, 1995. Emergency amendment filed May 10, 2001, effective May 22, 2001, expired Nov. 17, 2001. Amended: Filed May 10, 2001, effective Oct. 30, 2001. Amended: Filed May 31, 2012, effective Dec. 30, 2012. Rescinded: Filed Oct. 1, 2019.*

*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 Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, PO Box 570, 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 20—DEPARTMENT OF COMMERCE AND INSURANCE

### Division 2165—Board of Examiners for Hearing Instrument Specialists Chapter 1—General Rules

#### PROPOSED AMENDMENT

**20 CSR 2165-1.030 Custodian of Public Records.** The board is adding new section (3), renumbering, and amending sections (1), (2), and (4)–(6).

*PURPOSE: This amendment clarifies the policy in compliance with Chapter 610, RSMo, regarding the release of information on meetings, records, or vote of the Board.*

(1) The Board of Examiners for Hearing Instrument Specialists, *Division of Professional Registration, Department of Economic Development* is a public government body as defined in Chapter 610, RSMo, and adopts the following as its written policy for compliance with that chapter. This policy is open to public inspection and implements the provisions in Chapter 610, RSMo, regarding the release of information on any meeting, record, or vote of the Board of Examiners for Hearing Instrument Specialists which is not closed under the provisions of Chapter 610, RSMo.

(2) All public records of the *[office shall] board* will be open for inspection and copying by any member of the general public during normal business hours (8:00 a.m. to 5:00 p.m. Monday through Friday, **excluding** holidays *[excepted]*), except for the records closed under section 610.021, RSMo. *[All public meetings of the board not closed under that section will be open to any member of the public.]*

(A) The board may charge a reasonable fee for document searches and to copy requested records. The fees charged *[shall be]* are as follows:

1. A fee for a document search (research) shall not exceed the actual cost of the document search *[and shall be established by rule]; and*

2. A fee for copying public records shall not exceed the actual cost of duplication *[and shall be established by rule; and]*.

*[3. All fees collected shall be remitted to the Department of Revenue for deposit in the State Treasury.]*

**(3) All public meetings or portions of public meetings of the board not closed under section 610.021, RSMo, will be open to any member of the public.**

*[(3)](4)* The division establishes the executive director of the *[office] board* as the custodian of its records *[as required by] pursuant to* section 610.023, RSMo. The executive director is responsible for maintaining records and responding to requests for access to public records.

*[(4)](5)* Responding to Request for Access.

(A) If the custodian is uncertain whether requested access to public records is required under Chapter 610, RSMo, *[they shall] the custodian will* consult with *[the Office of the Attorney General] legal counsel* before deciding whether to deny the access. If that contact by the custodian is not practicable or is impossible the custodian may make a decision to deny access pending consultation with *[the Office of the Attorney General] legal counsel* and *[shall]* give the reason for delay to the person requesting the information within three (3) days. However, in those circumstances, the custodian shall consult with *[the Office of the Attorney General] legal counsel* within five (5) working days of the decision.

(B) When access is denied, the custodian will comply with the requirements in section 610.023, RSMo, concerning informing the individual requesting access to the records of the grounds for denying the request.

*[(5)](6)* The custodian shall maintain a file, which will *[retain,] be retained* for at least two (2) years, *[copies]* of all written requests for access to records and responses to requests. This file shall be maintained as a public record of the *[office] board* open for inspection by any member of the general public during regular business hours as noted in 20 CSR 2165-1.030(2).

*AUTHORITY: section [346.115.1(7)] 346.125, RSMo [2000] 2016. This rule originally filed as 4 CSR 165-1.030. Original rule filed Oct. 16, 1996, effective May 30, 1997. Moved to 20 CSR 2165-1.030, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008. Amended: Filed Sept. 25, 2019.*

*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 of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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 COMMERCE AND INSURANCE

### Division 2165—Board of Examiners for Hearing Instrument Specialists Chapter 2—Licensure Requirements

#### PROPOSED AMENDMENT

**20 CSR 2165-2.020 Supervisors.** The board is amending sections (1), (2), and (4)–(6).

*PURPOSE: This amendment clarifies the responsibilities of and requirements of a registered supervisor.*

(1) A licensed hearing instrument specialist may obtain a certificate of [authority] registration as a registered supervisor by completing an application from the board and paying the [required] fee as defined in 20 CSR 2165-1.020.

(2) A registered supervisor [of a hearing instrument specialist in training] must be licensed in Missouri as a hearing instrument specialist for a minimum of two (2) years.

(A) A licensed hearing instrument specialist who holds any professional license which is or has ever been subject to [probation, suspension, or revocation] any form of discipline may be prohibited from serving as a supervisor [of a hearing instrument specialist in training]; and

(B) [Within twelve (12) months of the effective date of the proposed rule, as published in the Code of State Regulations, a]A licensed hearing instrument specialist shall [pass the National Competency Examination (N.C.E.) administered by National Board for Certification in Hearing Instrument Sciences (NBC-HIS)] be credentialed as a Board Certified Hearing Instrument Specialist (BC-HIS) or the American Conference of Audioprosthology (ACA) or be a licensed audiologist pursuant to Chapter 345, RSMo, and licensed as a hearing instrument specialist in order to qualify as a registered supervisor.

[1. 20 CSR 2165-2.020(2)(B) shall not apply to a licensed hearing instrument specialist licensed as an audiologist pursuant to Chapter 345, RSMo, and possessing a certificate of clinical competence or is completing the clinical fellowship year offered by the American Speech-Language-Hearing Association.

2. 20 CSR 2165-2.020(2)(B) shall not apply to a licensed hearing instrument specialist who has passed the N.C.E. administered by NBC-HIS prior to the effective date of this proposed rule.]

(4) The registered supervisor shall meet with the hearing instrument specialist in training at least once per workweek, face-to-face, to review all [purchase agreements, audiometric evaluations, instrument orders, ear impressions, whether a purchase is made or not] audiometric evaluations, whether a purchase is made or not, purchase agreements, instrument orders, ear impressions, and all hearing instrument fittings. The registered supervisor must affix his/her signature and license number to purchase agreements and audiometric evaluation results.

(5) Within thirty (30) days of completion of registered supervision, pursuant to 20 CSR 2165-2.010(5) the registered supervisor shall document the supervision and training on an attestation form provided by the board.

[ (A) Within thirty (30) days of ]

(6) Upon termination of registered supervision, the registered supervisor shall submit both the attestation form and temporary permit to the board; and] within thirty (30) days.

[ (B) A hearing instrument specialist in training shall remain under supervision until s/he is licensed by the board.]

*AUTHORITY: sections 346.075.2 and [346.115.1(7)] 346.125, RSMo [2000] 2016. This rule originally filed as 4 CSR 165-2.020. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Emergency rule filed Oct. 28, 1996, effective Nov. 7, 1996, expired May 5, 1996. Original rule filed Oct. 16, 1996, effective May 30, 1997. Moved to 20 CSR 2165-2.020, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008. Amended: Filed Sept. 25, 2019.*

*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 of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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 COMMERCE AND INSURANCE**  
**Division 2165—Board of Examiners for Hearing Instrument Specialists**  
**Chapter 2—Licensure Requirements**  
**PROPOSED AMENDMENT**

**20 CSR 2165-2.030 Licensure by Examination.** The board is amending sections (1)–(9).

*PURPOSE: This amendment clarifies the requirements for obtaining a hearing instrument specialist license by examination.*

[ (1) Application for a Missouri hearing instrument specialist's license shall be on file in accordance with 20 CSR 2165-2.025.]

[ (2) ](1) Applications for the written examination shall be received by the board [no later than thirty (30) days] prior to the written examination. [Applications received or completed less than the thirty (30) days before the next examination scheduled may not be considered for examination.] Applications for the practical examination shall be received by the board at least thirty (30) days prior to the next scheduled practical examination.

[ (3) ](2) Applicants with special needs addressed by the Americans with Disabilities Act must notify the board office or its approved vendor at least thirty (30) days prior to the examination to ensure that reasonable accommodations are made. Notification may be forwarded in writing and mailed to the Board of Examiners for Hearing Instrument Specialists, PO Box 1335, [3605 Missouri Boulevard,] Jefferson City, MO 65102 or by calling (573) 751-0240. The [text telephone] TDD number for the hearing impaired is (800) 735-2966.

[ (4) ](3) [The examination may be administered by the board or its approved vendor in two (2) general parts, one (1) written and one (1) practical.] The practical examination will be [scheduled] administered at least every six (6) months. The [practical and written] written and practical examinations may be administered on different days.

[ (5) ](4) The written [portion] and practical portions of the examination may be administered by the board or its approved vendor utilizing a national testing service or other examination at the board's discretion.

(5) The applicant shall pass the written examination to be eligible for the practical portion of the examination. **The written examination scores shall be received by the board at least thirty (30) days**

prior to the next scheduled practical examination.

(6) *[The practical portion of the examination shall be conducted by the board or its approved vendor or its designees.]* The following procedures and requirements *[shall]* apply to the practical examination:

(A) It shall be the responsibility of the applicant to furnish all equipment needed. In order to ensure the integrity of the practical portion of the examination and that it adequately tests the applicant's abilities, the board or its approved vendor may determine what equipment an applicant is permitted to use and may prohibit the use of any particular equipment containing memory storage or automated testing procedures, unless it can be demonstrated and verified that the memory can be erased or the feature deactivated. Equipment shall be in good working order as evidenced by a receipt of annual calibration of the audiometer. Failure to have the necessary equipment will be sufficient reason to disallow the applicant the opportunity to take the practical portion of the examination and cause forfeiture of the examination fee. If the applicant wishes to take the next scheduled practical portion of the examination, the applicant must reapply and pay the *[proper]* practical examination fee; and

(B) The practical portion of the examination may be conducted at the discretion of the board or its approved vendor either using simulators or live subjects for all or part of the examination, except that all persons taking the examination on a specific date shall be tested in the same manner. *[It shall be the responsibility of the applicant to provide live subjects for examinations if requested. Live subjects shall sign a waiver of liability relieving the state of responsibility of actions taken by the applicants during the examination.]* A time limit may be imposed for any part of the practical portion of the examination provided that: 1) this time limit is established by the board or its approved vendor prior to the examination; and 2) *[that the time limit is reasonable; and 3)]* that it is applied uniformly.

(7) Requirements for Passing the **Written Examination.**

(A) The board or its approved vendor shall determine the passing score *[prior to the administration of the examination]* according to the standards of the examination.

*[(B)]* The board or its approved vendor shall notify the applicant of the test results within thirty (30) days of the examination.]

*[(C)](B)* If the applicant fails the written portion of the examination, the applicant shall retake the entire written *[portion of the]* examination *[upon payment of the proper examination fee].*

*[(D)](8)* If the applicant fails one (1) or more portions of the practical examination, the applicant shall retake the entire practical *[portion of the]* examination upon payment of the *[proper]* practical examination fee.

*[(E)]* A passing score on the written portion of the examination or the practical portion of the examination shall be valid for a maximum of eighteen (18) months.]

*[(F)](9)* An applicant who fails *[either]* the *[written or]* practical *[portions of the]* examination and two (2) subsequent re-examinations shall be disqualified from retaking the examination a fourth time, until meeting with the board, presenting a written plan for passing the examination, and obtaining the board's approval for retaking the examination. In the case of a hearing instrument specialist in training, the current registered supervisor, as defined in section 346.010(15), RSMo, must be present at the meeting with the board.

**AUTHORITY:** sections 346.060, 346.085, 346.115[.1(7)], and 346.125, RSMo [Supp. 2013] 2016. This rule originally filed as 4 CSR 165-2.030. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Original rule filed Oct. 16, 1996, effective May 30, 1997. For intervening history, please consult

the Code of State Regulations. Amended: Filed Sept. 25, 2019.

**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 of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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 COMMERCE AND INSURANCE

### Division 2165—Board of Examiners for Hearing Instrument Specialists Chapter 2—Licensure Requirements

#### PROPOSED RULE

#### 20 CSR 2165-2.035 Issuance of Temporary Courtesy License to Nonresident Military Spouse

**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 as a hearing instrument specialist for one hundred eighty (180) days.

(1) The board shall grant a temporary courtesy license to practice as a hearing instrument specialist without written examination to a "nonresident military spouse" as defined in 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:

(A) A completed application form;

(B) A non-refundable application fee, as established by the board pursuant to rule, made payable to the Board of Examiners for Hearing Instrument Specialists;

(C) Verification of spouse's active military duty;

(D) Proof that the applicant has been engaged in active practice in the state, district, or territory of the United States in which the applicant is currently licensed for at least (2) years in the five (5) years immediately preceding this application;

(E) Verification sent directly to the board from each state, district, or territory of the United States in which the applicant has ever been licensed verifying that—

1. The applicant is in good standing;

2. The applicant has not committed an act in any jurisdiction where the applicant has or had a license that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice; and

3. The applicant has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding by a licensing or credentialing entity in another jurisdiction; and

(F) Such additional information as the board may request to determine eligibility for a temporary courtesy license.

(2) Any temporary courtesy license issued pursuant to this rule shall be valid for one hundred eighty (180) days from the date of issuance



and may be extended for another one hundred eighty (180) days upon submission of a written request by the holder of the temporary courtesy license.

(3) If a nonresident military spouse seeks full licensure in this state during the time while the temporary courtesy license is valid, he or she may request full licensure by filing an application for licensure and meeting the requirements pursuant to section 346.055, RSMo. Any fees paid for a temporary courtesy license shall be credited towards the application fees due for full licensure.

*AUTHORITY: sections 324.008 and 346.125, RSMo 2016. Original rule filed Sept. 25, 2019.*

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

*PRIVATE COST: This proposed rule will cost private entities thirty-five dollars and ninety-eight cents (\$35.98) triennially 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 rule with the Missouri Board of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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.*

## PRIVATE FISCAL NOTE

## I. RULE NUMBER

Title 20 -Department of Commerce and Insurance

Division 2165—Board of Examiners for Hearing Instrument Specialists

Chapter 2 - Licensure Requirements

Proposed Amendment to 20 CSR 2165-2.035 Issuance of Temporary Courtesy License to Nonresident Military Spouse

## II. SUMMARY OF FISCAL IMPACT

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:
1	Temporary License Fee (Temporary License Fee @ \$25)	\$25
1	Verification Fee (Verification Fee @ \$10)	\$10
1	Application Postage (Postage @ \$0.98)	\$0.98
	<b>Estimated Triennial Cost of the Amendment for the Life of the Rule</b>	<b>\$35.98</b>

## III. WORKSHEET

See Table Above

## IV. ASSUMPTIONS

1. The board anticipates that there will be very few nonresident military spouse temporary courtesy license applicants. It is estimated that the board will have approximately one applicant triennially that chooses to apply through this route. The board believes that most applicants will opt to file an application for a temporary license.
2. Most states have eliminated the verification fee, however, the \$10 amount is an average verification fee charged by the remaining states.
3. It is anticipated that the total 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 340, RSMo. Pursuant to section 346.125, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 346, 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 346, RSMo.

**Title 20—DEPARTMENT OF COMMERCE AND  
INSURANCE  
Division 2165—Board of Examiners for Hearing  
Instrument Specialists  
Chapter 2—Licensure Requirements**

**PROPOSED RULE**

**20 CSR 2165-2.065 Renewal of Licenses for Military Members**

*PURPOSE: This rule sets forth the procedure for renewal of a license held by a licensee on active military duty and for discipline of a license held by a licensee on active military duty.*

(1) Any individual holding a current hearing instrument specialist license that is engaged in the performance of active military duty who has their license lapse while performing such military service, may renew or reinstate such license without penalty by—

(A) Filing with the board a Notice of Active Military Duty on a form provided by the board or by written communication accepted by the board that shall be signed and dated by the licensee and shall contain the licensee's name, address, the type of license or registration, license number, and the date of active duty activation, and shall be accompanied by a copy of the licensee's active duty orders or other evidence sufficient for the board to determine the dates of active military duty; and

(B) Filing such Notice of Active Military Duty or accepted written communication with the board no later than sixty (60) days after completion of the active duty military service.

(2) Upon receipt and approval of the Notice of Active Military Duty or accepted written communication, the board shall reinstate the individual's license with no further requirements.

(3) If a licensee fails to take any required action or fails to meet any required obligation of the board while the licensee is on active military duty, the licensee shall have at least one hundred eighty (180) days after the end of his or her active military duty to take those actions or fulfill those obligations before any administrative action can be taken by the board.

(4) If the board desires to initiate disciplinary action, administrative action, or any other proceeding where the licensee is a necessary party and the licensee is on active military duty, the board shall stay such action or proceeding until at least sixty (60) days after the licensee returns from active duty.

*AUTHORITY: sections 41.950, 324.008, and 346.125, RSMo 2016. Original rule filed Sept. 25, 2019.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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 COMMERCE AND  
INSURANCE  
Division 2165—Board of Examiners for Hearing  
Instrument Specialists  
Chapter 2—Licensure Requirements**

**PROPOSED AMENDMENT**

**20 CSR 2165-2.070 Public Complaint Handling and Disposition Procedure.** The board is amending the purpose and sections (1)–(6).

*PURPOSE: This amendment clarifies the complaint procedure.*

*PURPOSE: This rule establishes a procedure for the receipt, handling, and disposition of public complaints by the [division] board.*

(1) The office will receive and process each complaint made against any licensee or hearing instrument specialist in training [which] when a complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 346, RSMo. Any member of the public or the profession, or any federal, state, or local official may make and file a complaint with the department. Complaints from sources outside Missouri will be received and processed in the same manner as those originating within Missouri. No member of the board shall file a complaint with this division while they hold that office, unless the member excuses him/herself from further board deliberations or activity concerning matters alleged within that complaint. Any executive director or any staff member within the division 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] sent to the [following address] board at: Board of Examiners for Hearing Instrument Specialists, [3605 Missouri Boulevard,] P[O].B[ox] 1335, Jefferson City, MO, 65102-1335 or behis@pr.mo.gov. Complaints may be made based upon personal knowledge or upon information and belief reciting information received from other sources. [Telephone number (573) 751-0240. TDD number (800) 735-2966.]

(3) All complaints shall be made in writing and [shall] fully identify the complainant by name and address. Complaints shall be made on forms provided by the board. Oral or telephone communication will not be considered or processed as complaints. However, the person making this communication will be provided with a complaint form and requested to complete it in writing and return it to the office.

(4) Each complaint received under this rule shall be acknowledged in writing. The licensee or subject of the complaint shall be informed as to whether the complaint is being investigated. Both the licensee and the complainant shall be notified of the ultimate disposition of the complaint, excluding judicial appeals and [shall] be provided with copies of the ultimate disposition (if any) of the Administrative Hearing Commission and the board. The provisions of this section shall not apply to complaints filed by staff members of the board based on information and belief, acting in reliance on third-party information received by the division.

(5) Both the complaint and any information obtained as a result of the investigation shall be considered a closed record and [shall] not be available for inspection by the general public. However, a copy of the complaint and any attachments shall be provided to any licensee who is the subject of that complaint or their legal counsel, upon written request to the office.

(6) This rule shall not be deemed to limit the board's authority to file a complaint with the Administrative Hearing Commission charging a licensee or hearing instrument specialist in training [of the board]

with any actionable conduct or violation, whether or not any public complaint has been filed with the board.

*AUTHORITY:* section [346.115.1(7)] 346.125, RSMo [Supp. 1996] 2016. This rule originally filed as 4 CSR 165-2.070. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-2.070, effective Aug. 28, 2006. Amended: Filed Sept. 25, 2019.

*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 of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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 COMMERCE AND INSURANCE

### Division 2165—Board of Examiners for Hearing Instrument Specialists Chapter 3—Code of Ethics

#### PROPOSED AMENDMENT

**20 CSR 2165-3.010 General Obligations of the Licensee.** The board is amending sections (3)–(5) and deleting section (7).

*PURPOSE:* This amendment clarifies the professional and ethical obligations of licensed hearing instrument specialist and hearing instrument specialist in training.

(3) It shall be unethical for a hearing instrument specialist in training to misrepresent or mislead, directly or by implication, prospective purchasers into the erroneous belief that the hearing instrument specialist in training is licensed as a hearing instrument specialist by the state of Missouri by—

(A) Omitting “hearing instrument specialist in training” [or its equivalent as defined in 20 CSR 2165-2.030] from business cards, advertising, or any other industry document bearing his/her name; or

(4) It shall be unethical for a registered supervisor of a hearing instrument specialist in training to—

(A) Fail to provide the [required] training and supervision [according] pursuant to 20 CSR 2165-2.010 to a hearing instrument specialist in training; or

(5) It is incompetency in the practice of selling and fitting hearing instruments if each of the following testing procedures is not used before a client is [fitted] fit:

(A) [Air conduction, with masking where indicated] **Visual otoscopy**;

(B) [Bone conduction] **Air conduction**, with masking where appropriate;

(C) [Speech reception threshold and word discrimination, utilizing test equipment with a calibrated circuit; and] **Bone conduction, with masking where appropriate**;

(D) [Visual otoscopy.] **Speech reception threshold, with mask-**

**ing where appropriate and utilizing test equipment with a calibrated circuit;**

(E) **Word discrimination, with masking where appropriate and utilizing test equipment with a calibrated circuit;**

(F) **Most Comfortable Level (MCL) or discredits, with masking where appropriate and utilizing test equipment with a calibrated circuit; and**

(G) **Uncomfortable Loudness Level (UCL) or discredits while utilizing test equipment with a calibrated circuit.**

[ (7) Failure to complete or misrepresent completion of continued education requirements as required in section 346.095, RSMo (Supp. 1995) is a violation of the Code of Ethics.]

*AUTHORITY:* section [346.115.1(7)] 346.125, RSMo [2000] 2016. This rule originally filed as 4 CSR 165-3.010. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-3.010, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008. Amended: Filed Sept. 25, 2019.

*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 of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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 COMMERCE AND INSURANCE

### Division 2165—Board of Examiners for Hearing Instrument Specialists Chapter 3—Code of Ethics

#### PROPOSED AMENDMENT

**20 CSR 2165-3.020 Deceptive Practices.** The board is amending sections (2), (5)–(6), and (9).

*PURPOSE:* This amendment protects the public by providing clarification of what is unfair and deceptive practices.

(2) It shall be an unfair and deceptive practice for the licensee to misrepresent—

(A) The [brand] **manufacturer**, model, [grade, quality,] quantity, [origin, novelty,] price, [cost,] terms of sale, [use, construction, size, composition, dimension,] type, [design, development, visibility, durability,] performance, fit, [appearance, efficacy,] benefits, [cost of operation,] or resistance to climatic conditions, [physiological benefit, psychological benefit, or psychological well-being induced by any product];

(E) The [reparability] **repair ability**, including the cost thereof, or the adequacy of a prospective purchaser’s own hearing instrument or ancillary equipment; and

(5) It shall be an unfair and deceptive practice, for the licensee directly or by implication to—

(A) Omit disclosure that instruments have been used, or contain

used parts. In such cases the licensee shall make full and non-deceptive disclosure of such facts in all advertising and promotional literature relating to the product, on the container, box, or package in which such product is packed or enclosed [and, if the product has the appearance of being new, on the product itself]. The required disclosure shall be made by both verbal and written use of such words as “used,” “secondhand,” “repaired,” or “rebuilt,” whichever most accurately describes the product involved; and

(6) It shall be an unfair or deceptive practice for the licensee to/—  
(A) Represent, either directly or by implication, through the use of words or expressions that any hearing instrument, device or part is hidden or cannot be seen unless such is the fact; and].

[(B) Represent, directly or by implication, that a hearing instrument utilizing bone conduction has certain specified features such as the absence of anything in the ear, or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in most cases of hearing loss this type of instrument is not suitable.]

(9) It shall be an unfair or deceptive practice and unethical conduct for the licensee to—

(A) Represent or use any seals, emblems, shields, or other insignia which represent, directly or by implication, in any manner that a hearing instrument or device has been tested, accepted, or approved by any individual, [concern,] organization, group, or association, unless such is the fact and unless the hearing instrument or device has been tested by such individual, [concern,] organization, group, or association in such manner as reasonable to insure the quality and performance of the instrument in relation to its intended usage and the fulfillment of any material claims made, implied, or intended to be supported by such representation or insignia; and

(B) Make any other false, misleading, or deceptive representation respecting any testing, acceptance, or approval of a hearing instrument or device by any individual, [concern,] organization, group or association.

*AUTHORITY: section [346.115.1(7)] 346.125, RSMo [(Cum. Supp. 1996)] 2016. This rule originally filed as 4 CSR 165-3.020. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-3.020, effective Aug. 28, 2006. Amended: Filed Sept. 25, 2019.*

*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 of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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.*

amending section (1).

*PURPOSE: This amendment explains the requirements and responsibilities of licensee’s and how a licensee should represent him/herself to the public.*

(1) [In accordance with federal law, a]All licensees shall clearly communicate to every purchaser, prior to the purchase, that s/he is not conducting an examination, diagnosis, or prescription by a person licensed to practice medicine in the state of Missouri, and therefore his/her opinions must not be regarded as medical opinion or advice.

*AUTHORITY: section [346.115.1(7)] 346.125, RSMo [(Cum. Supp. 1996)] 2016. This rule originally filed as 4 CSR 165-3.030. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-3.030, effective Aug. 28, 2006. Amended: Filed Sept. 25, 2019.*

*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 COMMERCE AND INSURANCE**

**Division 2165—Board of Examiners for Hearing Instrument Specialists  
Chapter 3—Code of Ethics**

**PROPOSED AMENDMENT**

**20 CSR 2165-3.030 Medical Clearance and Waivers.** The board is