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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."

JOHN R. ASHCROFT

SECRETARY OF STATE

MISSOURI REGISTER

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

HOW TO CITE RULES AND RSMO

RULES

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

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

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

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

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

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

Code and *Register* on the Internet

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

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

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

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

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

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

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

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY AMENDMENT

4 CSR 85-5.010 Overview and Definitions. The department is amending section (2) to update the terms used for the Missouri Historic Preservation Tax Credit program.

PURPOSE: This amendment updates the terms used for the Missouri Historic Preservation Tax Credit program.

*EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, ensuring consistent application of law, and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. To account for changes to the program application process, definitions must be added to the existing rule to clarify terms and avoid confusion on the part of program applicants and developers. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Economic Development believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

(2) As used in this chapter, the following terms mean:

(A) Applicant. The entity or individual(s) that owns or has site control of the eligible property (as defined in section 253.545(3), RSMo) on which qualified rehabilitation expenditures have been incurred which are expected to generate tax credits. Proof of ownership shall include evidence that applicant is the fee simple owner of the eligible property, such as a warranty deed or closing statement. Proof of site control may be evidenced by a leasehold interest for a term of not less than thirty (30) years, provided that such leasehold interest is not determined to be a disqualified lease as defined in section 168(h) of the Internal Revenue Code of 1986, as amended, or an option to acquire such an interest. If the applicant is in the process of acquiring fee simple ownership, proof of site control shall include an executed sales contract or an executed option to purchase the eligible property.

(B) Department. The Department of Economic Development.

(C) Developer Fee Agreement. A written agreement for services between the developer and the applicant in the form provided by the department.

(D) Director. The director of the department.

(E) Final Application. A request for tax credits by an applicant whose project is complete and whose preliminary application has been approved by the department, on the form provided by the department.

*[(A)]***(F)** Final Completion. For the purposes of issuing state historic preservation tax credits, the project is considered complete when all work has been done on the project. The final year construction costs are incurred is the year credits will be issued. (i.e., if costs are still being incurred in 2007 then regardless of *[“]*placed in service*[”]* date or date of *[“]*substantial completion,*[”]* the credits will be issued as 2007 credits if those expenses are being claimed for tax credits.) Please note: completion dates have been established for the state historic program only. Federal guidelines vary. Final completion is separately determined for each *[“]*construction period*[”]* of a *[“multiple]* **phased** project.*[”]* Costs associated with one construction period may not be carried to another construction period of a project. Each construction period is considered a separate project for audit purposes and must stand alone to meet all requirements of the HTC Program. Any exceptions must be submitted to *[DED]* **the department** before the final cost certification is submitted and must be approved in writing by *[DED]* **the department**.

(G) Guidelines. The program guidelines, which shall be published on the department's website.

(H) Hard Costs. Qualified rehabilitation expenditures, or QREs, related to the structural components of a building, including, but not limited to, walls, partitions, floors, ceilings, windows, doors, components of central air conditioning or heating systems, plumbing, electrical wiring and lighting fixtures, chimneys, stairs, escalators, elevators, sprinkling systems, fire escapes, and other components related to the operation or maintenance of the building.

*[(B)]***(I)** Identity of Interest**, or Related Party**. An identity of interest**, or related party,** may exist **when**:

1*[)]*. *[when t]***T**he *[project owner]* **applicant** has any financial interest in the other party (i.e., general contractor, subcontractor, vendor);

2*[)]*. *[when o]***O**ne (1) or more of the officers, directors, stockholders, or partners of the *[project owner]* **applicant** is also an officer, director, stockholder, or partner of the other party;

3*[)]*. *[when a]***A**ny officer, director, stockholder, or partner of the *[project owner]* **applicant** has any financial interest whatsoever in the other party or has controlling interest in the management or operation of the other party;

4*[)]*. *[when t]***T**he other party advances any funds to the *[project owner]* **applicant**;

5*[)]*. *[when t]***T**he other party provides and pays on behalf of the *[project owner]* **applicant** the cost of any legal services, architectural services, or engineering services other than those of a surveyor, general superintendent, or engineer employed by a general contractor in connection with obligations under the construction contract;

6*[)]*. *[when t]***T**he other party takes stock or any interest in the *[project owner]* **applicant** as part of consideration to be paid; *[and]*

7*[)]*. *[when t]***T**here exists or comes into being any side deal*[s]*, agreement*[s]*, contract, or undertaking*[s]* entered into thereby altering, amending, or canceling any of the original documents submitted to *[DED]* **the department** *[at initial]* **in the preliminary** application, except as approved by *[DED. In the event an identity of interest exists between the project owner, developer, and/or contractor, care should be taken that no duplication of work exists.]* **the department;**

8. Any party involved in the project would be deemed to constructively own the stock of another party involved in the project as set forth in section 304(c) of the Internal Revenue Code of 1986, as amended; or

9. Any party involved in the project has a stockholder, member, partner, officer, or director that is related by blood, adoption, or marriage to a stockholder, member, partner, officer, or director of another party involved in the project.

(J) Inactive Project. Any project deemed pending as described in written communication from the department to the applicant or that has received a tax credit authorization that, in either case, has remained idle without communication from the applicant to the department providing a justified reason for such idleness, such justification to be reasonably determined by the department, for a period of at least nine (9) months from the date the last written correspondence was sent by the department to the applicant regarding the project.

(K) Incomplete Application. A preliminary application received by the department that is not submitted in accordance with the preliminary application or its instructions, regulations, or the department's guidelines published on its website.

(L) Incurred. Has the same meaning as set forth in U.S. Treasury Regulation 26 CFR 1.461-1(a)(2)(i).

*[(C)]***(M)** Non-Qualified Expenditures. All costs included in *[T]***t**otal *[P]***p**roject *[C]***c**osts which are not *[Q]***q**ualified *[R]***r**ehabilitation *[E]***e**xpenditures are considered *[N]***n**on-*[Q]***q**ualified *[E]***e**xpenditures**, including, but not limited to, a list of non-qualified expenditures under the program published by the department in the program guidelines, which shall be effective for the state fiscal year beginning on July 1 following such publication and may be updated for subsequent state fiscal years in the reasonable determination of the department. Each project shall be held to the non-qualified expenditures effective on the date the project's preliminary application was submitted. Costs of acquisition shall constitute a non-qualified expenditure**.

[(D) Project Owner. The entity or individual(s) owning the structure or property on which rehabilitation or new construction costs have been incurred which are expected to generate HTC and/or Neighborhood Presentation Act (NPA) tax credits.]

(N) Not-for-profit. A not-for-profit entity, including but not limited to a not-for-profit corporation formed under chapter 355, RSMo.

(O) Phased Project. A project for which the applications for tax credits submitted to the department provide for the project to be completed and reviewed in more than one construction period, as described in 4 CSR 85-5.080.

(P) Preliminary Application. A request by an applicant for an authorization of tax credits, on the form approved and made available by the department.

(Q) Preliminary Approval. The department's authorization of tax credits for a particular project under the program.

(R) Program. The Missouri Historic Preservation Tax Credit Program as set forth in sections 253.545 to 253.559, RSMo.

(S) Project. The structure or property on which qualified rehabilitation expenditures are to be incurred which is expected to generate tax credits.

*[(E)]***(T)** Qualified Rehabilitation Expenditures**, or** *[(]*QREs*.[)—HTC. Qualified Rehabilitation Expenditures are t]***T**hose expenditures that are used as eligible basis on which to calculate the Missouri Historic Preservation Tax Credit. Such costs include, but shall not be limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended**, as determined by the department; and a list of qualified rehabilitation expenditures under the program that the department shall publish in its guidelines, which shall be effective for the state fiscal year beginning on July 1 following such publication and may be updated for subsequent state fiscal years in the reasonable determination of the department. Each project shall be held to the list of qualified rehabilitation expenditures effective on the date the project's preliminary application was submitted.**

[(F) Qualified Rehabilitation Expenditures (QRE)—NPA. Qualified Rehabilitation Expenditures are those expenditures that are used as eligible basis on which to calculate the Missouri Neighborhood Preservation Tax Credit.]

(U) Soft Costs. QREs other than hard costs, including, but not limited to, architect fees, engineering fees, construction management costs, utilities incurred during rehabilitation, property taxes, reasonable developer fees, construction period interest, and financing costs related to construction financing.

(V) Tax Credits. State historic preservation tax credits authorized under the program.

*[(G)]***(W)** Total Project Costs. *[Total Project Costs include a]***A**ll costs, whether accrued or paid, pertaining to the redevelopment of the property for which an application for tax credits has been submitted. Total *[P]***p**roject *[C]***c**osts include all *[Qualified Rehabilitation Expenditures]* **QREs** and all *[N]***n**on-*[Q]***q**ualified *[E]***e**xpenditures, including the shell acquisition cost. It does not include any cash reserves established or to be established for the project, such as replacement reserves, lease-up reserves, lease commission reserves, or other cash held by, or for, the *[project owner]* **applicant**.

*AUTHORITY: sections 135.487[, RSMo 2000] and [section] 620.010, [HB 788, Second Regular Session, Ninety-fourth General Assembly, 2008] **RSMo 2016**. Original rule filed July 8, 2008, effective Feb. 28, 2009. Emergency amendment filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY AMENDMENT

4 CSR 85-5.020 *[Preliminary]* **Application***s*. The department is

amending the title, purpose, and sections (1) through (6) of this rule and adding seven (7) new sections.

PURPOSE: This amendment explains the application process for the Historic Preservation Tax Credit Program.

*EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits. This emergency amendment describes program application requirements in effect for applications for tax credits considered for approval in the state fiscal year beginning July 1, 2019, advance notice of which is crucial for applicants to take into account for purposes of project planning and finance. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Economic Development believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

*PURPOSE: This rule [establishes requirements for submitting a preliminary] **explains the** application **process** for tax credits under the Historic Preservation Tax Credit Program.*

[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) *[In order to qualify for state historic preservation tax credits, the property must be a certified historic structure listed on the National Register of Historic Places or a contributing structure in a certified historic district, as those terms are defined in section 253.545, RSMo. The eligible rehabilitation costs and expenses must exceed fifty percent (50%) of the total basis in the property. A copy of the portion of the settlement statement that shows purchase price must be submitted as proof, preferably with the preliminary application materials. The rehabilitation must meet standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the State Historic Preservation Office of the Missouri Department of Natural Resources (SHPO).]* **All applicants shall submit a preliminary application. Sections (2) through (7) of this rule shall not apply to projects to receive less than two hundred seventy-five thousand dollars ($275,000) of tax credits.**

(2) *[The approval process is broken into two (2) parts—the preliminary application and the final application.]* A preliminary application **will be scored and considered by the department in accordance with section 253.559.3(1), RSMo. The scoring criteria for preliminary applications shall be published annually on the department's website. Based on their scores, the department will place preliminary applications into one of three tiers: Tier 1, Tier 2, or Tier 3. The department will automatically reject all incomplete applications.** *[should be submitted prior to any project work. This allows the Missouri Department of Economic Development (DED) and SHPO to review the project for eligibility and allows SHPO to guide the applicant in regard to rehabilitation. Any work done prior to certification of preliminary approval is done at the applicant's risk.]*

(3) *[A project may be completed in multiple construction periods. Use of construction periods will only be allowed when a phased federal application is also filed. The construction periods used for the state historic rehabilitation must match the phase dates submitted in the federal application. The applicant must apply for all construction periods simultaneously, prior to the start of any work on the project. An applicant who elects to utilize construction periods must submit an audit performed by a certified public accountant.]* **A Tier 1 preliminary application that has been received by the department, but has not been approved due to an exhaustion of the program cap, will be placed in line for review until there is sufficient program cap space due to a rescission of authorized tax credits for such state fiscal year in which the program cap has been exhausted or until the next state fiscal year with sufficient program cap space. Tier 2 and Tier 3 preliminary applications that have been received by the department, but have not been approved due to an exhaustion of the program cap, will not be further considered.**

(4) *[Applicants for state historic preservation tax credits whose]* **The department shall accept** preliminary applications *[are received by the DED on, or after, February 28, 2009, but before January 30, 2015 must follow the procedures and guidelines found in Missouri Historic Preservation Tax Credit Program, Preliminary Application and Guidelines and complete Historic Preservation Tax Credit Program—Preliminary Approval Form—Form 1, both of which are incorporated by reference in this rule as published February 28, 2009, by DED and available at DED, Business and Community Services, 301 West High Street, Suite 770, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.]* **in two (2) cycles for each state fiscal year. An applicant shall apply to the program on the preliminary application form approved and made available by the department.**

(A) Specific application submission schedules shall be established by the department and published not less than two (2) months prior to the beginning of each application period. Preliminary applications for the first cycle must be submitted to the department and postmarked no earlier than June 1, 2019, for allocations to be awarded for the fiscal year starting July 1, 2019, or no earlier than October 1 for allocations to be awarded on or after January 1, 2020.

(B) Pursuant to section 253.559.1, RSMo, preliminary applications within each cycle shall be prioritized for review and approval in the order of the date on which the application was postmarked, with the oldest postmarked date within the cycle receiving priority.

(C) Preliminary applications postmarked on the same day shall go through a lottery process to determine the order in which such preliminary applications shall be reviewed. Upon the department's review, if more than one preliminary application receives the same score, such applications shall be approved in the order determined by the lottery process.

(5) *[Applicants for state historic preservation tax credits whose preliminary applications are received by the DED on, or after, January 30, 2015 must follow the procedures and guidelines found in Missouri Historic Preservation Tax Credit Program, Preliminary Application and Guidelines, which is incorporated by reference in this rule as published*

September 2, 2014, by DED and available at DED, Division of Business and Community Services, 301 West High Street, Suite 770, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.] **Subject to sufficient program cap space, preliminary applications for projects meeting the following requirements are not subject to the application cycles set forth in section (4) of this rule and shall be accepted by the department at any time:**

(A) The applicant or an entity with a direct or indirect controlling interest in applicant has received a formal, written proposal for business development incentives executed by the director of the department with regard to the project;

(B) The project will be occupied by the applicant or an entity with a direct or indirect controlling interest in applicant upon completion; and

(C) The applicant or an entity with a direct or indirect controlling interest in applicant has committed to relocating to Missouri from another state.

(6) The department shall review preliminary applications in the order established by the lottery system described in section (4) of this rule; however, the department shall not authorize tax credits until such preliminary application has received written, unconditional approval from the State Historic Preservation Office.

*[(6)]***(7)** *[After receiving]* **For projects that receive** preliminary approval*[, the applicant may go forward with the project. When the project is completed and expenses have been paid, the final application should be submitted along with expense documentation and required application materials. (See rule 4 CSR 85-5.030.) After the final materials are received by DED, SHPO performs a final review of the technical project work and DED performs an audit of the expenses. After approval of the project work and expenses, a tax credit certificate for twenty-five percent (25%) of state qualified rehabilitation expenditures is issued and mailed to the applicant.]* **and that are located within a qualified census tract as defined in section 253.545, RSMo, credits shall first be authorized from the amount allocated for all projects set forth in section 253.550.2(1), RSMo, before being authorized from the amount allocated solely for qualified census tract projects set forth in section 253.550.2(2), RSMo.**

(8) An applicant's hard costs set forth in the preliminary application will only be deemed eligible QREs if they are incurred on the later of:

(A) Six (6) months prior to the department's approval of the applicant's preliminary application; or

(B) One (1) month prior to the department's receipt of the applicant's preliminary application.

(9) An applicant's soft costs set forth in the preliminary application will only be deemed eligible QREs if they are incurred on the later of:

(A) One (1) year prior to approval of the applicant's preliminary application; or

(B) Six (6) months prior to the receipt of the applicant's preliminary application.

(10) Subject to section 253.559.9, RSMo, at an applicant's request, the department may contract to facilitate an independent review process of an applicant's preliminary cost certification by one or more third-party certified public accountant firms, provided that any such independent cost certification review shall be paid entirely by the applicant and shall not constitute an eligible QRE under the program, and further provided that, under such independent review process, applicant may not contract with a certified public accountant firm with which it is a related party or has had a significant business relationship, as reasonably determined by the department. The department may publish guidance regarding such independent cost certification review in the program guidelines.

(11) An applicant shall submit the final application on the form approved and made available by the department. The final application shall be evaluated using the rules and guidelines published by the department for the fiscal year in which the applicant's preliminary application was submitted.

(12) If upon submitting the final application, the amount of eligible QREs is in excess of the amount approved under the program's preliminary application process, the applicant may apply to the department for issuance of tax credits in an amount equal to such excess. The applicant must apply for issuance of the excess credits on the form provided by the department. Applications for issuance of excess credits will be placed in line for issuance at the next available date. When evaluating an application for excess credits, the department may adjust the project scores in light of the excess amount.

(13) Except as otherwise provided, no property shall receive preliminary approval within five (5) years following the issuance of tax credits in connection with that property.

AUTHORITY: sections ***135.487 and*** *620.010, RSMo [Supp. 2014]* ***2016****. Original rule filed July 8, 2008, effective Feb. 28, 2009. Amended: Filed July 31, 2014, effective Jan. 30, 2015. Emergency amendment filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed amendment covering this same material is published in this issue of the* ***Missouri Register****.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY AMENDMENT

4 CSR 85-5.030 *[Final]* ***Preliminary*** **Application** ***Evaluation—Net Fiscal Benefit***. The department is amending the title and purpose and replacing sections (1) through (3) of this rule with a single section.

PURPOSE: This amendment clarifies the application considerations set forth in section 253.559.3(1)(a), RSMo for the Historic Preservation Tax Credit Program.

EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, ensuring consistent application of law, and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. This emergency amendment describes the Department of Economic Development's consideration of the amount of projected net fiscal benefit of the project to the state and local municipality when evaluating applications for tax credits under the program, which is required by section 253.559.3(1)(a), RSMo. A proposed amendment, which covers the same material, is published in this issue of the ***Missouri Register****. The scope of this emergency amendment is limited to the circumstances creating the*

*emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

PURPOSE: This rule [establishes the requirements for submitting the final application for tax credits under the Historic Preservation Tax Credit Program.] ***clarifies the application considerations set forth in section 253.559.3(1)(a), RSMo.***

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

(1) When a project for which tax credits are sought under the Historic Preservation Tax Credit Program (HTC) is completed and expenses have been paid, the final application should be submitted along with expense documentation and required application materials. After the final materials are received by the Department of Economic Development (DED), the State Historic Preservation Office of the Department of Natural Resources (SHPO) performs a final review of the technical project work and DED performs an audit of the expenses. After approval of the project work and expenses, a tax credit certificate for twenty-five percent (25%) of qualified rehabilitation expenditures is issued and mailed to the applicant.

(2) For projects with total project costs of two hundred fifty thousand dollars ($250,000) or more in which tax credits are being sought under both the HTC program and the Neighborhood Preservation Tax Credit Program (sections 135.475 to 135.487, RSMo), the project applicant must follow the HTC guidelines and complete the HTC cost certification, which will be used by both programs in the credit approval process.

(3) Applicants for state historic preservation tax credits must follow the procedures and guidelines found in Missouri Historic Preservation Tax Credit Program, Final Application and Guidelines and complete Historic Preservation Tax Credit Program—Final Approval Form—Form 2, both of which are incorporated by reference in this rule as published February 28, 2009, by DED and available at DED, Business and Community Services, 301 West High Street, Suite 770, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.]

For purposes of evaluating a preliminary application for tax credits pursuant to section 253.559.3(1)(a), RSMo, net fiscal benefit to the state and local municipality shall be reasonably determined by the department.

AUTHORITY: sections 135.487[, RSMo 2000] and [section] 620.010, [HB 788, Second Regular Session, Ninety-fourth General Assembly, 2008] ***RSMo 2016****. Original rule filed July 8, 2008, effective Feb. 28, 2009. Emergency amendment filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY RULE

4 CSR 85-5.040 Preliminary Application Evaluation—Overall Size and Quality of the Project

PURPOSE: This rule clarifies the application considerations set forth in section 253.559.3(1)(b), RSMo.

*EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. This emergency rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, as well as ensuring consistent application of law and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. This emergency rule describes the Department of Economic Development's consideration of the overall size and quality of the proposed project when evaluating applications for tax credits under the program, which is required by section 253.559.3(1)(b), RSMo. 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**. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

(1) For purposes of evaluating a preliminary application for tax credits pursuant to section 253.559.3(1)(b), RSMo, the department shall evaluate the following criteria:

(A) Leveraged investment ratio, as determined by the total project investment divided by the amount of tax credits requested;

(B) The number of net new jobs to the state to be created by the project;

(C) The average wage for new jobs to be created by the project;

(D) Potential multiplier effect of the project, based on the project's industry type (e.g., manufacturing office facilities, residential); and

(E) The amount of overall project financing for which the applicant has secured firm commitments prior to submitting its preliminary application to the department.

*AUTHORITY: sections 135.487 and 620.010, RSMo 2016. Emergency rule filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY RULE

4 CSR 85-5.050 Preliminary Application Evaluation—Level of Economic Distress

PURPOSE: This rule clarifies the application considerations set forth in section 253.559.3(1)(c), RSMo.

*EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. This emergency rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, as well as ensuring consistent application of law and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. This emergency rule describes the Department of Economic Development's consideration of the level of economic distress in a proposed project's geographic area when evaluating applications for tax credits under the program, which is required by section 253.559.3(1)(c), RSMo. 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**. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

(1) For purposes of evaluating a preliminary application for tax credits pursuant to section 253.559.3(1)(c), RSMo, the department shall evaluate the following criteria:

(A) The project census tract's designation as a federal opportunity zone;

(B) The project census tract's designation as a qualified census tract, as defined in section 253.545(7), RSMo;

(C) The project census tract's level of unemployment, as compared to the statewide level of unemployment;

(D) The project census tract's overall poverty rate, as determined pursuant to section 253.545(7), RSMo; and

(E) The project's vacancy or underutilization prior to rehabilitation.

*AUTHORITY: sections 135.487 and 620.010, RSMo 2016. Emergency rule filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY RULE

4 CSR 85-5.060 Preliminary Application Evaluation—Input from Local Elected Officials

PURPOSE: This rule clarifies the application considerations set forth in section 253.559.3(1)(d), RSMo.

*EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. This emergency rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, as well as ensuring consistent application of law and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. This emergency rule describes the Department of Economic Development's consideration of input from local elected officials regarding a proposed project when evaluating applications for tax credits under the program, which is required by section 253.559.3(1)(d), RSMo. 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**. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

(1) For purposes of evaluating a preliminary application for tax credits pursuant to section 253.559.3(1)(d), RSMo, the department shall evaluate the following criteria:

(A) Committed amount of local incentives to the project; and

(B) Signed letter of support from the chief elected official of the jurisdiction where the project will be located.

*AUTHORITY: sections 135.487 and 620.010, RSMo 2016. Emergency rule filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY RULE

4 CSR 85-5.070 Compliance with Other Provisions of Law

PURPOSE: This rule clarifies the issuance requirements for Historic Preservation Tax Credit certificates.

*EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. This emergency rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, as well as ensuring consistent application of law and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. This emergency rule describes the Department of Economic Development's tax credit issuance requirements pursuant to the updated program application process, advance notice of which is crucial for applicants to take into account for purposes of project planning and finance. 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**. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

(1) A tax credit certificate issued following the final completion shall be in an amount no greater than those costs that are deemed eligible under the program, and shall only be issued after compliance with all other provisions of law, including but not limited to:

(A) Payment of any issuance fees under section 620.1900, RSMo, or similar provisions; and

(B) Payment of any back taxes and penalties under section 135.815, RSMo, or similar provisions.

(2) All sources of funds for payment of project costs, invoices for project costs, and other documentation relating to the project must be in applicant's name and authorized by applicant. All loans related to the project must be made to applicant, provided that loans may be made to applicant's owner if applicant is a single member limited liability company where the single member is an individual. An applicant may not receive tax credits for Qualified Rehabilitation Expenditures (QREs) paid by a third party payor on behalf of the applicant, regardless of whether applicant reimburses the third party payor. A title company paying on behalf of an applicant shall not be considered a third party payor for purposes of this section.

AUTHORITY: sections 135.487 and 620.010, RSMo 2016. Emergency rule filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY RULE

4 CSR 85-5.080 Phased Projects

PURPOSE: This rule explains the circumstances under which a project can have multiple construction periods under the Historic Preservation Tax Credit program.

EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. This emergency rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, as well as ensuring consistent application of law and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. This emergency rule describes how the Department of Economic Development will evaluate projects with multiple phases pursuant to the updated program application process, advance notice of which is crucial for applicants to take into account for purposes of project planning and finance. 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****. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

(1) To qualify as a phased project, an applicant must:

(A) Apply for the federal historic preservation tax incentives program as a phased project;

(B) Submit a preliminary application for each construction period of the phased project at the same time; and

(C) The phased project application must be submitted with each preliminary application.

(2) Each phased preliminary application for tax credits must mirror the phasing listed in the federal historic preservation tax incentives project application.

(3) Each construction period of a phased project must be described such that expenditures are clearly identified as incurred during an individual phase.

(4) All amendments to a state phased project application must have identical amendments as the applicant's federal phased project application. An amended phased project application shall be evaluated as an amendment to the project phase in question.

(5) Each construction period of a phased project must meet all program requirements on its own, without consideration of any other phase of the project.

(6) The director shall have the authority to approve a phased project application using an aggregate estimate with flexibility among phases for projects that meet the requirements of 4 CSR 85-5.020(5).

AUTHORITY: sections 135.487 and 620.010, RSMo 2016. Emergency rule filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY RULE

4 CSR 85-5.090 Developer Fees; General Contractor Requirements

PURPOSE: This rule explains the treatment of developer fees and general contractor requirements under the Historic Preservation Tax Credit program.

EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. This emergency rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, as well as ensuring consistent application of law and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. This emergency rule describes how the Department of Economic Development will evaluate developer fees and general contractor requirements pursuant to the updated program application process, advance notice of which is crucial for applicants to take into account for purposes of project planning and finance. 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****. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

(1) For a developer fee to be a Qualified Rehabilitation Expenditure (QRE), the developer fee agreement must be on the form approved and made available by the department in the program guidelines for the applicable state fiscal year.

(2) A developer fee shall be deemed a QRE only if:

(A) The developer fee is reasonable, which shall mean that it does not exceed twelve percent (12%) of total project cost less non-qualified expenditures, related party fees, profit, and the total amount of the developer fee itself;

(B) The developer fee is evidenced by written records indicating:

1. A requirement of full payment of the developer fee within five (5) years of final completion, as defined within the developer fee agreement; and

2. That the applicant will be personally liable for repayment of all credits attributable to any amount of the developer fee not paid within five (5) years of final completion; and

(C) The developer fee agreement is provided to the department with an applicant's preliminary application, if notarized at or prior to that date, but not after the later to occur of the project's initial closing on construction financing; or initial closing on federal historic tax credits, if applicable. If no developer fee agreement has been submitted to the department for review by the later to occur of either event in the preceding sentence, no developer fees will be deemed eligible as QREs for such project.

1. Any amendments to the developer fee agreement that change the amount of the developer fee shall include the justification for such increase or decrease to such amount.

2. All developer agreements and amendments thereto must be signed and notarized by all parties involved to be considered eligible as a QRE.

3. In the event applicant amends any developer fee agreement for any developer fees that applicant requests or has requested as QREs, applicant shall provide the department with such amendment upon its execution.

(3) In order to be included as a QRE, general contractor overhead, including general requirements, and profit must be separately listed on the expense report form submitted with the final application. General contractor profit and overhead must be reasonable.

(A) General contractor profit is presumed to be reasonable if it is equal to or less than six percent (6%) of total eligible project costs less related party fees, overhead, and profit.

(B) General contractor overhead, including general requirements, is presumed to be reasonable if it is equal to, or less than four percent (4%) of total eligible project costs less related party fees, overhead, and profit.

(4) Payment of a developer fee within a reasonable period of time following its accrual is material to the department's approval of such developer fee as a QRE. The appropriate real party in interest to represent the state shall have standing to bring suit for an applicant's failure to pay an accrued developer fee for which tax credits have been issued within five (5) years of such developer fee's accrual.

AUTHORITY: sections 135.487 and 620.010, RSMo 2016. Emergency rule filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY RULE

4 CSR 85-5.100 Not-for-Profits

PURPOSE: This rule explains the treatment of not-for-profit entities under the Historic Preservation Tax Credit program.

EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. This emergency rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, as well as ensuring consistent application of law and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. This emergency rule describes how the Department of Economic Development will evaluate not-for-profit entity involvement in proposed projects pursuant to the updated program application process, advance notice of which is crucial for applicants to take into account for purposes of project planning and finance. 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****. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

(1) Not-for-profit entities, including but not limited to entities organized as not-for-profit corporations pursuant to chapter 355, RSMo, shall be ineligible for tax credits. Under no circumstance shall tax credits be issued to a not-for-profit.

(2) A for-profit entity will be restricted from full participation in the program if that entity has a not-for-profit as part of its ownership group or has received a contribution from a related not-for-profit. Such a for-profit applicant shall have its tax credits reduced by the greater of:

(A) The percentage interest in its ownership held by or attributed to a not-for-profit. When a not-for-profit is considered part of the applicant's ownership group, ownership interest shall be attributed to the related party not-for-profit in accordance with the attribution rules of section 304(c)(3) of the Internal Revenue Code of 1986, as amended; and

(B) The percentage of capital contributed by or on behalf of a not-for-profit owner or related party.

(3) A for-profit applicant may obtain a non-forgivable loan from a related not-for-profit entity and not have its tax credits reduced on account of such loan if such loan is made on reasonable, commercial terms evidencing an arms-length transaction, as reasonably determined by the department.

(4) For purposes of section (2) of this rule, an ownership interest will not be attributed to a related party not-for-profit that is separated from the applicant in the ownership structure, directly or indirectly, by a for-profit entity, including blocker corporations and all corporations filing U.S. Treasury (Internal Revenue Service) Form 1120 or their successors that have been formed for a legitimate business purpose. The related party not-for profit is still considered to be a related party for all other purposes under the program. The determination of whether or not a business was formed for a legitimate business purpose will be made by the department after considering all relevant facts and circumstances. In its review of a legitimate business purpose, the department shall consider, but not be limited to, the factors and principles set forth in *Moline Properties, Inc. v. Commissioner*, 319 U.S. 436 (1943), and applicable federal law.

(5) In cases of not-for-profit ownership for the sole purpose of obtaining local tax exemptions pursuant to chapters 100 or 353, RSMo, consistent with the holding of the U.S. Supreme Court in *Helvering v. F&R Lazarus & Co.*, 308 U.S. 252 (1939) and the Internal Revenue Service's published guidance in Revenue Ruling 68-590, the change in ownership required for such local tax exemptions will not render a project ineligible for tax credits, provided that all invoices submitted to the department as Qualified Rehabilitation Expenditures (QREs) are incurred and paid by the applicant.

AUTHORITY: sections 135.487 and 620.010, RSMo 2016. Emergency rule filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 85—Division of Business and Community Services
Chapter 5—Historic Preservation Tax Credit Program

EMERGENCY RULE

4 CSR 85-5.110 Administrative Closure

PURPOSE: This rule explains the administrative closure process for inactive projects under the Historic Preservation Tax Credit program.

EMERGENCY STATEMENT: The emergency amendment incorporates and implements changes to sections 253.545, 253.550, and 253.559, RSMo and the historic structures rehabilitation tax credit program effected by Senate Bill 590 (2018), effective August 28, 2018. This emergency rule is necessary to preserve the compelling governmental interest of successfully implementing the statutory changes regarding evaluation criteria for applications for tax credits, as well as ensuring consistent application of law and providing sufficient advance notice to program applicants prior to the review of applications for tax credits considered for approval in the state fiscal year beginning on July 1, 2019. This emergency rule describes how the Department of Economic Development will administratively close projects that have received an allocation of tax credits following nine months of project inactivity, advance notice of which is crucial for applicants to take into account for purposes of project planning and communication with the Department regarding approved projects. 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****. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective March 30, 2019, and expires December 31, 2019.*

The department may administratively close any inactive project upon written notice sent to the applicant.

AUTHORITY: sections 135.487 and 620.010, RSMo 2016. Emergency rule filed March 20, 2019, effective March 30, 2019, expires Dec. 31, 2019. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 6—Certified Community Behavioral Health Clinics

EMERGENCY RULE

9 CSR 30-6.010 Certified Community Behavioral Health Clinics

PURPOSE: This rule establishes the requirements for Certified Community Behavioral Health Clinics (CCBHCs) to provide a comprehensive range of mental health and substance use disorder services to people with serious mental illness, serious emotional disturbances, long-term chronic addiction, mild or moderate mental illness and substance use disorders, and complex health conditions. CCBHCs provide services regardless of an individual's ability to pay, including those who are underserved, have low incomes, are insured, uninsured, Medicaid-eligible, and active duty U.S. Armed Forces or veterans.

EMERGENCY STATEMENT: This emergency rule is necessary to comply with the department's proposed State Plan Amendment (SPA) with the Centers for Medicare and Medicaid Services to establish CCBHC service as part of the Medicaid services provided by the department. The SPA requires the department to have certification standards in place by the effective date of the SPA which will be July 1, 2019. The department has determined this emergency rule is necessary to protect public health, safety, and/or welfare and to preserve a compelling governmental interest. 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****. The department believes this emergency rule is fair to all interested parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective July 1, 2019, and expires October 30, 2019.*

(1) Definitions. The following definitions apply to terms used in this rule:

(A) Certified Community Behavioral Health Clinic (CCBHC)—an entity certified by the department to provide CCBHC services within their designated service area(s);

(B) Department – the Department of Mental Health; and

(C) Designated Collaborating Organization (DCO)—an entity that is not under the direct supervision of a Certified Community Behavioral Health Clinic (CCBHC) but is engaged in a contractual arrangement with a CCBHC to provide CCBHC services under the same requirements as the CCBHC.

(2) Regulations. All CCBHCs shall comply with all regulations, requirements, and standards specified in 9 CSR 10-7 and 9 CSR 30-4.

(3) Designated Service Areas. Organizations must be certified by the department to provide CCBHC services in one (1) or more service areas as established by the department under 9 CSR 30-4.005. The required CCBHC services, as specified in this rule, must be provided in each designated service area.

(A) Each CCBHC shall develop and maintain services and supports designed to meet the needs of the populations of focus. Populations of focus shall include:

1. Adults with serious mental illness as defined in 9 CSR 30-4.005(6);

2. Children and adolescents with serious emotional disturbances as defined in 9 CSR 30-4.005(7);

3. Children, adolescents, and adults with moderate to severe substance use disorders;

4. Children with behavioral health disorders who are in state custody; and

5. Individuals involved with law enforcement, the courts, and hospital emergency rooms who have been identified as in need of community behavioral health services.

(B) Each CCBHC shall regularly assess the unique socio-demographic factors of their service area(s) and implement strategies to improve access, quality of care, and reduce health disparities experienced by relevant cultural and linguistic minorities.

(4) Availability and Accessibility of Services. Services shall not be denied or limited based on an individual's ability to pay, place of residence, homelessness, or lack of a permanent address.

(A) CCBHCs shall provide, at a minimum, crisis response, evaluation, and stabilization, as needed, for individuals who present for services but do not reside within the CCBHC's designated service area(s). Policies and procedures shall specify the CCBHC's process for managing the ongoing treatment needs of such individuals, such as linkage to a CCBHC in the service area where the individual currently lives.

(B) CCBHCs shall provide outpatient services at times and locations that ensure accessibility and meet the needs of individuals in the service area, including some evening hours, and when appropriate and practicable, weekend hours.

(C) CCBHCs shall ensure—

1. No individual in the populations of focus is denied services including, but not limited to, crisis management because of an inability to pay for such services; and

2. Any fees or payments required by the CCBHC for such services shall be reduced as provided by the sliding fee schedule described in section (13) of this rule in order to enable the CCBHC to fulfill the assurance described in paragraph (4)(C)1. of this rule.

(D) CCBHCs shall ensure individuals determined to need specialized behavioral health services beyond the scope of its program are referred to a qualified provider(s) for necessary services.

(5) Certification and National Accreditation. CCBHCs shall maintain national accreditation and/or department certification as specified below:

(A) Accreditation from CARF International (CARF) to provide Outpatient Mental Health and Outpatient Alcohol and other Drugs/Addictions, or Outpatient Alcohol and Other Drugs/Mental Health to serve children, youth, and adults; or

(B) Accreditation from The Joint Commission (TJC) to provide Comprehensive Behavioral Health services to children, youth, and adults.

1. Provisional certification from the department to provide outpatient mental health treatment and substance use disorder treatment for children, youth, and adults is acceptable until accreditation is obtained from CARF or TJC as specified;

(C) Accreditation from CARF or TJC as a Health Home for children, youth, and adults;

(D) Accreditation from CARF for Crisis and Information Call Center for the provision of a twenty-four (24) hour crisis line for children, youth, and adults with mental health and substance use disorders. If the CCBHC contracts with a DCO to provide this service, the DCO must be accredited by CARF as specified;

(E) Accreditation from CARF for Crisis Intervention Services for the provision of a twenty-four (24) hour mobile crisis team for children, youth, and adults with mental health and substance use disorders. If the CCBHC contracts with a DCO to provide this service, the DCO must be accredited by CARF as specified.

1. The twenty-four (24) hour crisis line and twenty-four (24) hour mobile response team shall also comply with 9 CSR 30-4.195, Access Crisis Intervention (ACI) program; and

(F) Certification/deemed certification from the department in accordance with 9 CSR 30-4 as a Community Psychiatric Rehabilitation (CPR) program serving children, adolescents, and adults.

(6) Required Services. CCBHCs shall provide a comprehensive array of services to create and enhance access, stabilize people in crisis, and provide the necessary treatment for individuals with the most serious, complex mental illnesses and substance use disorders.

(A) The following core CCBHC services must be directly provided by the CCBHC in each designated service area:

1. Crisis mental health services, including a twenty-four (24) hour crisis line and twenty-four (24) hour mobile crisis response team. Crisis mental health services must be available at the CCBHC during regular business hours and be provided by a Qualified Mental Health Professional (QMHP). The crisis line and mobile crisis response team services may be directly provided by the CCBHC or by contract with a department-approved DCO;

2. Screening, assessment, and diagnosis, including risk assessment;

3. Patient-centered treatment, including risk assessment and crisis prevention planning;

4. Outpatient mental health and substance use disorder treatment services, including medication services for the treatment of addictions;

5. Outpatient clinic primary care screening and monitoring of key health indicators and health risk;

6. Targeted case management;

7. Psychiatric rehabilitation services;

8. Peer support, counseling, and family support services, including peer and family support services for individuals receiving CPR and/or Comprehensive Substance Treatment and Rehabilitation (CSTAR) services, consistent with the array of services and supports specified in the job descriptions of Family Support Providers and Certified Peer Specialists; and

9. Intensive, community-based mental health services for active members of the U.S. Armed Forces and veterans.

(B) In addition to the core services, CCBHCs shall directly provide, contract with a DCO, or have a referral agreement with an organization that is certified/deemed certified by the department to provide the following services:

1. General adult, adolescent, and women and children's CSTAR services;

2. Recovery support services, if services are available in the CCBHC's designated service area(s);

3. Outreach services to reduce unnecessary utilization of emergency rooms by the populations of focus, including case managers to respond to and engage individuals who present at collaborating emergency rooms, access necessary resources to meet the individual's basic needs on an emergency basis, and assist individuals in accessing CCBHC services on an emergency, urgent, and/or routine basis, as needed.

(7) Required Staff. CCBHCs must maintain adequate staffing to meet the needs of the populations of focus. Staff may be full- or part-time employees of the CCBHC or contracted by the CCBHC to provide services.

(A) Required staff shall include:

1. Medical Director who is a licensed psychiatrist;

2. Licensed mental health professionals with expertise and specialized training in the treatment of trauma-related disorders;

3. Community Mental Health Liaison (a cooperative agreement with a CCBHC that employs a Community Mental Health Liaison is acceptable);

4. Clinical staff to complete comprehensive behavioral health assessments, annual assessments, and treatment plans;

5. Licensed mental health professionals who have completed training on evidence-based, best, and promising practices as required by the department;

6. Physician(s) with a waiver in accordance with the Drug Addiction Treatment Act of 2000 (DATA 2000) to treat opioid use disorders with narcotic medications approved by the Food and Drug Administration (FDA), including buprenorphine;

7. Community Support Specialists who have completed department-approved wellness training;

8. Individuals who have completed department-approved smoking cessation training;

9. Family Support Providers who have completed department-approved training; and

10. Certified Peer Specialists who have completed department-approved training.

(8) Screening, Assessment, and Treatment Planning. Unless a specific tool is required by the department, CCBHC staff shall use standardized and validated screening and assessment tools, including age-appropriate functional assessments and screening tools, and when appropriate, brief motivational interviewing techniques.

(A) At first contact, individuals seeking CCBHC services shall receive a preliminary screening and risk assessment to determine acuity of need. Emergency, urgent, or routine service needs shall be identified and addressed as follows:

1. Individuals who present in crisis shall receive services immediately, including arrangements for any necessary outpatient follow-up services;

2. Individuals who present with an urgent need shall receive clinical services and an eligibility determination within one (1) business day of the time the request was made; and

3. Individuals who present with routine needs shall receive clinical services and an eligibility determination within ten (10) days of first contact.

(B) Following the preliminary screening, qualified staff shall conduct an initial evaluation and further screening, and provide needed services as indicated by the initial evaluation. Additional screening shall include, but is not limited to:

1. Depression screening for all adolescents age thirteen (13) to eighteen (18) years of age;

2. Depression screening for all adults age nineteen (19) and older;

3. Suicide risk assessment for all adolescents and adults diagnosed with major depression;

4. Brief health screen, as specified by the department;

5. Alcohol use disorder screening; and

6. Substance use disorder screening.

(C) The initial comprehensive assessment must be completed within specific treatment program timelines, not to exceed sixty (60) days.

1. A functional assessment shall be completed utilizing an instrument approved by the department for all individuals enrolled in the CSTAR and/or CPR program, and must be updated at least every ninety (90) days.

2. For individuals not enrolled in CSTAR or CPR, a functional assessment shall be completed using a department-approved instrument, when an individual appears to be experiencing moderate or more serious impairment. If the functional assessment confirms an individual is experiencing moderate or more serious impairment, the functional assessment must be updated every ninety (90) days.

3. The comprehensive assessment must be updated in collaboration with the individual receiving services as warranted by changes in his or her health status, responses to treatment, and/or achievement of goals.

4. The comprehensive assessment must be updated at least every ninety (90) days for individuals with moderate or more serious impairment as determined by the functional assessment.

(D) Results of the comprehensive assessment shall be utilized to develop an initial treatment plan within sixty (60) days of the individual's first contact with the CCBHC, unless a shorter timeframe is required by a specific treatment program. The treatment plan shall be developed collaboratively with the individual served and/or parents/guardian, family members, and other natural supports, as appropriate.

1. CCBHCs shall promote collaborative treatment planning by providing the individual's Primary Care Provider (PCP) with relevant assessment, evaluation, and treatment plan information, seeking all relevant treatment and test results from the PCP, and inviting the PCP to participate in treatment planning.

(E) The following information shall be collected and be available for reporting to the department or other entities, upon request:

1. The number and percentage of new and established individuals served who were determined to need crisis, urgent, and routine care;

2. The number and percentage of new and established individuals with urgent needs who began receiving needed clinical services within one (1) business day;

3. The number and percentage of new and established individuals with routine needs who began receiving needed clinical services within ten (10) business days; and

4. The mean number of days from first contact to completion of the initial comprehensive assessment and initial treatment plan for individuals served.

(9) Services for Active Duty Members of the U.S. Armed Forces and Veterans. CCBHCs must determine whether all individuals seeking service are current or former members of the U.S Armed Forces.

(A) CCBHCs shall refer Active Duty Members or activated Reserve Component Members to their Military Treatment Facility or TRICARE PRIME Remote Primary Care Manager for referral to services.

(B Members of the Selected Reserves, not on active duty, who are enrolled in TRICARE Reserve Select, shall be referred to a TRICARE Reserve Select provider.

(C) If an individual is a veteran not currently enrolled in the Veterans Health Administration (VHA), CCBHC staff must offer to assist him/her in enrolling in the VHA.

(10) Crisis Response. CCBHCs must ensure individuals have access to crisis response services twenty-four (24) hours per day, seven (7) days per week as follows:

(A) Each CCBHC shall directly provide American Society of Addiction Medicine (ASAM) Level 1-Withdrawal Management (WM) services;

(B) Each CCBHC shall directly provide or contract with a DCO to provide:

1. ASAM Level 2-WM services;

2. ASAM Level-3.2 Clinically Managed Residential Withdrawal Management, commonly referred to as social setting detoxification services; and

3. ASAM Level 3.7-Medically Monitored Inpatient Withdrawal Management, commonly referred to as modified medical detoxification services;

(C) If CCBHC staff determine that a face-to-face intervention is required based on the presentation of an individual, then that face-to-face intervention must occur within three (3) hours; and

(D) CCBHC staff shall monitor and have the capacity to report the length of time from each individual's initial crisis contact to the face-to-face intervention and take steps to improve performance, as necessary.

(11) Care Coordination. CCBHCs shall actively pursue and promote collaborative working relationships with the broad array of community organizations and practitioners that provide services and supports for individuals receiving services from the CCBHC.

(A) Consistent with requirements of privacy, confidentiality, and individual preference and need, CCBHC staff shall assist individuals and families of children and youth who are referred to external providers or resources in obtaining an appointment and confirming the appointment was kept.

(B) Nothing about a CCBHC's agreements for care coordination shall limit an individual's freedom of choice of provider(s) with the CCBHC or its DCOs.

(C) CCBHC policies and procedures shall promote and describe its care coordination roles and responsibilities, and whenever possible, the development of formal agreements with community organizations and practitioners that document mutual care coordination roles and responsibilities, with particular attention to emergency room, hospital, and residential treatment admissions and discharges. CCBHC policies and procedures shall ensure reasonable attempts are made and documented to:

1. Track admissions and discharges of non-Medicaid eligible individuals to and from a variety of settings, and to provide transitions

to safe community settings; and

2. Follow up with individuals served within twenty-four (24) hours following hospital discharge.

(D) For all individuals in the populations of focus, CCBHC staff shall inquire whether they have a PCP, assist individuals who do not have a PCP to acquire one, and establish policies and procedures that promote and describe the coordination of care with each individual's PCP.

(E) For all individuals in the populations of focus, CCBHC staff shall document in the individual record the name of each individual's PCP, indicate they are assisting him or her in acquiring a PCP, or the individual refuses to provide the name of their PCP or accept assistance in acquiring a PCP.

(12) Evidence-Based Practices. CCBHCs shall incorporate evidence-based, best, and promising practices into its service array.

(A) CCBHCs shall have adopted, or be participating in a department-approved initiative, to promote trauma-informed care and suicide prevention.

(B) CCBHCs shall have adopted with fidelity, a model for providing integrated treatment for co-occurring disorders approved by the department.

(C) CCBHCs shall demonstrate a continued commitment to adopting new evidence-based, best, and promising practices, such as—

1. Assertive Community Treatment (ACT);
2. Supported employment;
3. Supported housing;
4. Parent-Child Interaction Therapy;
5. Dialectical Behavior Therapy;
6. Multi-systemic Therapy; and
7. First Episode Psychosis.

(13) Fee Schedule. CCBHCs shall publish a sliding fee discount schedule(s) that includes all available services. The fee schedule shall be included on the CCBHC website, posted in the waiting/reception area, and be readily accessible to individuals seeking services and their family members and other natural supports.

(A) The sliding fee discount schedule shall be communicated in languages/formats appropriate for individuals seeking services who have Limited English Proficiency (LEP) or disabilities.

(B) The fee schedule shall, to the extent relevant, conform to state statutory or administrative requirements or to federal statutory or administrative requirements that may be applicable to existing clinics. Absent applicable state or federal requirements, the schedule shall be based on locally prevailing rates or charges and include reasonable costs of operation.

(C) CCBHCs shall have written policies and procedures describing eligibility for services in accordance with the sliding fee discount schedule. These policies and procedures shall be applied equally to all individuals seeking services from the CCBHC.

(14) Information Systems. CCBHCs shall maintain a health information technology (HIT) system that includes, but is not limited to, electronic health records of all individuals served. Electronic health record systems must comply with state and federal regulations.

(A) The HIT system must have the capability to capture structured information in individual records, including demographic information, diagnoses, and medication lists, provide clinical decision support, and electronically transmit prescriptions to the pharmacy.

(15) DCO Contracts. If the CCBHC enters into a contractual agreement(s) with a DCO, the contract shall include the following provisions:

(A) DCO staff having contact with individuals served, and/or their families, are subject to the same training requirements as staff of the CCBHC;

(B) The CCBHC coordinates care and services provided by the DCO in accordance with the individual's current treatment plan;

(C) The CCBHC is ultimately clinically responsible for all care provided;

(D) The individual's freedom to choose service providers is maintained;

(E) All individuals have access to the CCBHC's grievance procedures; and

(F) Services provided by the DCO shall meet the same quality standards as those provided by the CCBHC.

(16) Governing Body Representation. CCBHCs shall ensure individuals served and their parents/guardians, family members, and other natural supports have meaningful participation in the development and ongoing review of the organization's policies and procedures, service delivery practices, and service array.

(A) Meaningful participation shall be demonstrated by one (1) of the following:

1. At least fifty-one percent (51%) of the governing body consists of individuals who are receiving or have received services for a serious mental illness, serious emotional disturbance, or substance use disorder, or the parents/guardian, family members/natural supports of individuals served;

2. A substantial portion of the governing body consists of individuals who are receiving services or have received services for a serious mental illness, serious emotional disturbance, or substance use disorder, or the parents/guardian, family members/natural supports of individuals served; or

3. A transition plan is developed, with timelines appropriate to the size of the governing body and target population, to establish a governing body with at least fifty-one (51%) or a substantial portion of the governing body consisting of individuals who are receiving services or have received services for a serious mental illness, serious emotional disturbance, or substance use disorder, or the parents/guardian, family members and other natural supports of individuals served.

(B) If the CCBHC is a subsidiary or part of a larger corporate organization and cannot meet the requirements identified in paragraphs (16)(A)1.–3. of this rule, the CCBHC shall have or develop an advisory structure or other specifically described process to ensure individuals who are receiving services or have received services for a serious mental illness, serious emotional disturbance, or substance use disorder, or the parents/guardian, family members and other natural supports of individuals served, have meaningful input to the governing body related to its policies and procedures, service delivery practices, and service array.

(C) CCBHCs may develop and implement an alternative process, which must be approved by the department, to ensure the governing body is responsive to the needs of individuals served and their parents/guardians, family members, natural supports, and the communities it serves.

(D) CCBHCs must be able to document input from individuals served and their parents/guardian, family members, natural supports, and communities served, including the impact on its policies, processes, and services.

(E) To the extent practicable, each CCBHC's governing body and/or advisory board shall be representative of the populations served in terms of demographic factors such as, geographic area, race, ethnicity, sex, gender identity, disability, age, and sexual orientation.

(F) Each CCBHC's governing body members or advisory board members shall be selected for their expertise in health services, community affairs, local government, finance and banking, legal affairs, trade unions, faith communities, commercial and industrial concerns, and social services within the communities served.

(G) No more than fifty percent (50%) of the governing body members may derive more than ten percent (10%) of their annual income from the health care industry.

AUTHORITY: sections 630.050 and 630.655, RSMo 2016. Emergency

rule filed March 20, 2019, effective July 1, 2019, expires Oct. 30, 2019. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 14—Election Contributions

EMERGENCY RULE

15 CSR 30-14.010 Campaign Contribution Limits

PURPOSE: This rule sets the limits of contributions that a political party may accept from any person or committee.

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

This emergency rule is necessary to address changes made to the ***Missouri Constitution****, which require the secretary of state to calculate limits on campaign contributions. Article VIII, Section 23 of the* ***Missouri Constitution*** *requires the secretary of state to calculate a contribution limit adjustment in the first quarter of 2019 using the past four (4) years Consumer Price Index (CPI) issued by the United States Bureau of Labor Statistics. The CPI for 2018 have only been released recently preventing the filing of this proposed rule sooner. The secretary of state needs this emergency rule to ensure that upcoming elections have the current limits as required under the Constitution.*

The secretary of state finds there is a compelling governmental 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****. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed March 20, 2019, becomes effective March 30, 2019, and expires January 8, 2020.*

(1) Notwithstanding Article III, Section 2(c), the campaign contribution limits set forth in Article VIII, Section 23.3, as adjusted pursuant to Article VIII, Section 23.3(18) are as follows:

(A) By any person, other than the candidate, to a candidate running for governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, office of state senator, office of state representative, or any other state of judicial office under Article VIII, Section 23.3(1), two thousand six hundred fifty dollars ($2,650);

(B) By any person to a political party for any state, county, municipal, district, ward, or township level election under Article VIII, Section 23.3(2)(a), twenty-five thousand five hundred fifty dollars ($25,550);

(C) By any committee to a political party for any state, county, municipal, district, ward, or township level election under Article VIII, Section 23.3(2)(b), twenty-five thousand five hundred fifty dollars ($25,550).

(2) That the secretary of state shall calculate adjustments to campaign contribution limits every four (4) years using the past four (4) years Consumer Price Index (CPI) issued by the United States Bureau of Labor Statistics for Kansas City and St. Louis.

(3) That these limits shall remain in effect until the secretary of state recalculates the campaign contribution limits in four (4) years and publishes them as an amended rule.

AUTHORITY: Article VIII, Section 23.3(18). Emergency rule filed March 20, 2019, effective March 30, 2019, expires Jan. 8, 2020. A proposed rule covering this same material will be published in this issue of the ***Missouri Register****.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules

EMERGENCY AMENDMENT

20 CSR 2220-2.400 Compounding Standards of Practice. The board is adding a new section (13), renumbering as necessary, and amending sections (12) and (14) of the rule.

PURPOSE: This board is amending sections (12) and (14) of this rule and adding section (13) to delineate requirements for compounding medication for office use/administration by a Missouri licensed veterinarian for animal patients.

EMERGENCY STATEMENT: This emergency amendment is being promulgated to protect the lives of Missouri animals by ensuring the continued availability of emergency compounded medication for veterinarian use in this state. Compounding of medication generally involves the mixing or preparation of medication by combining one (1) or more ingredients to meet the specific needs of the individual client/patient. Compounded preparations play a critical role in veterinary medicine. Unlike human practitioners, veterinarians treat a large variety of breeds and species, each of which have their own set of health challenges and diseases. The vast differences in species, breed, and size among patients requires specific amounts, dosages, and dosage forms to meet the needs of individual patients. As a result, veterinarians routinely prescribe or administer compounded medication where no commercial product is available, where the patient is allergic to the commercially available product, or where the drug does not come in the appropriate dose form for a particular animal.

Currently, the Missouri Board of Pharmacy's Rule 20 CSR 2220-2.400(12) prohibits a pharmacist from providing veterinarians with compounded preparations for office administration. Instead, a patient-specific prescription is required that includes the precise species of the patient. However, veterinarians perform a significant amount of emergency care where medication cannot be prescribed in advance due to the emergency nature of the use. Particularly in the rural parts of the state, veterinarians often travel long distances and perform much of their work in service to the state's agriculture industry in barns, pastures, and stables and may not know what medication is needed in an emergency situation until after the patient is seen/evaluated. As a result, veterinarians need to keep life-saving drugs on hand and in their trucks to meet uncertain and often emergent patient needs. Many of these compounded products such as Apomorphine and fomepazole are life-saving drugs and must be kept on hand for immediate administration when needed. Under the board's current rule, these necessary medications cannot be dispensed by a pharmacy unless the specific name and species of the patient is provided to the pharmacy in advance which, once again, the veterinarian may not have or know.

Compounding for office administration is specifically vital for animal shelters. Across Missouri, shelters take in mass numbers of pets on short notice, often when law enforcement raids puppy mills or other cat hoarding situations. These animals are often diseased and are held in close confines where outbreaks can easily spread. Shelter veterinarians have to treat large numbers on intake, often without any advance warning of which pets they will be treating, and in emergent conditions. Absence of the required compounded medication threatens

the lives of not only the applicable pet/animal, but also other animals/pets being housed.

In September 2018, the Missouri Veterinary Medical Association (MVMA) asked the Missouri Board of Pharmacy to take emergency action to allow pharmacies to compound for veterinarian medication. MVMA informed the board that an increasing number of veterinarians were unable to find needed emergency medication to treat Missouri's agricultural population. Significantly, MVMA reported a number of these medications were unavailable from any other source due to manufacturer backorders or voluntary discontinuation of a proprietary veterinary drug from the market. The Board of Pharmacy was subsequently contacted by a number of veterinarians in November and December of 2018 who indicated they were unable to find needed emergency medication and asked the board to allow an exemption to the compounding for office use/administration restriction. In many cases, veterinarians reported agricultural patients were unable to get medical care because the practitioner did not have access to the compounded drugs they needed for office administration. In at least one (1) instance, a patient/animal death was suspected.

The Board of Pharmacy subsequently consulted with the Missouri Veterinary Medical Board to identify the appropriate solution to meet the emergency need resulting in the following emergency amendment. This emergency amendment is necessary to protect and preserve the lives of Missouri veterinary patients by allowing pharmacists to compound medication needed for emergency office use/administration. A corresponding emergency rule filed by the Missouri Veterinary Medical Board would limit the amount of compounded medication dispensed by a veterinarian to no more than a seven- (7-) day supply. Adoption of these amendments through the ordinary rulemaking process will leave veterinarians in the state of Missouri without the ability to provide immediate and emergency treatment for patients in need of compounded medication.

*As a result, the Missouri Veterinary Medical Board and the Missouri State Board of Pharmacy jointly find that there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Missouri Veterinary Medical Board and the Missouri Board of Pharmacy believe this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed March 20, 2019, becomes effective March 30, 2019, and expires January 8, 2020.*

(12) **Except as provided by law, *[P]*harmacists shall not offer or provide** compounded ***[drug products]*** **preparations** to other pharmacies, practitioners**,** or ***[commercial]*** entities for subsequent **dispensing, distribution,** resale**,** or administration, except in the course of professional practice for a prescriber to administer to an individual patient by **a** prescription **dispensed by the pharmacy**. A pharmacist or pharmacy may advertise or otherwise provide information concerning the provision of compounding services; however, no pharmacist or pharmacy shall attempt to solicit business by making specific claims about compounded ***[products]*** **preparations**.

(13) Pharmacies may provide non-patient specific compunded preparations for veterinary use to a Missouri-licensed veterinarian to administer and dispense to the veterinarians's animal patients, provided the following:

(A) The preparation container is labeled with:

1. Pharmacy name, address, and telephone number;

2. Date of distribution;

3. Veterinarian's name;

4. Preparation name, strength, dosage form, and quantity;

5. Name of each active or therapeutic ingrediant included in the preparation;

6. Preparation lot/batch number;

7. Preparation beyond-use date; and

8. Statement: "Office Stock Compounded Preparation";

(B) The pharmacy maintains a record of the distribution to the veterinarian;

(C) The pharmacy can retrieve distribution records by specific veterinarian, if requested;

(D) In lieu of (7)(A)7., the veterinarian's name may be recorded on the compounding log; and

(E) The pharmacy complies with all applicable controlled substance laws and regulations.

[(13)]**(14)** In addition to the requirements outlined in this rule, all standards and requirements as outlined in ***[4 CSR 220-2.020]*** **20 CSR 2220-2.200** Sterile ***[Pharmaceuticals]*** **Compounding** must be adhered to whenever compounding involves the need for asceptic procedures or requires the use of or results in an intended steril pharmaceutical product.

*AUTHORITY: section[s] 338.010, **RSMo Supp. 2018, and sections** 338.140, 338.240**,** and 338.280, RSMo ***[2000]*** **2016**. This rule originally filed as 4 CSR 220-2.400. Original rule filed Aug. 25, 1995, effective April 30, 1996. Amended: Filed Dec. 3, 2002, effective July 30, 2003. Moved to 20 CSR 2220-2.400, effective Aug. 28, 2006. Emergency amendment filed March 20, 2019, effective March 30, 2019, expires Jan. 8, 2020. A proposed amendment covering the same material is published in this issue of the **Missouri Register**.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards

EMERGENCY AMENDMENT

20 CSR 2270-4.031 Minimum Standards for Practice Techniques. The board is adding new subsection (3)(H).

PURPOSE: This board is amending section (3) of this rule by adding subsection (H) to delineate requirements for compounding medication for office use/administration by a Missouri licensed veterinarian for animal patients.

EMERGENCY STATEMENT: This emergency rule is being promulgated to protect the lives of Missouri animals by ensuring the continued availability of emergency compounded medication for veterinarian use in this state. Compounding of medication generally involves the mixing or preparation of medication by combining one (1) or more ingredients to meet the specific needs of the individual client/patient. Compounded preparations play a critical role in veterinary medicine. Unlike human practitioners, veterinarians treat a large variety of breeds and species, each of which have their own set of health challenges and diseases. The vast differences in species, breed, and size among patients requires specific amounts, dosages, and dosage forms to meet the needs of individual patients. As a result, veterinarians routinely prescribe or administer compounded medication where no commercial product is available, where the patient is allergic to the commercially available product, or where the drug does not come in the appropriate dose form for a particular animal.

Currently, the Missouri Board of Pharmacy's Rule 20 CSR 2220-2.400(12) prohibits a pharmacist from providing veterinarians with compounded preparations for office administration. Instead, a patient-specific prescription is required that includes the precise species of the patient. However, veterinarians perform a significant

amount of emergency care where medication cannot be prescribed in advance due to the emergency nature of the use. Particularly in the rural parts of the state, veterinarians often travel long distances and perform much of their work in service to the state's agriculture industry in barns, pastures, and stables and may not know what medication is needed in an emergency situation until after the patient is seen/evaluated. As a result, veterinarians need to keep life-saving drugs on hand and in their trucks to meet uncertain and often emergent patient needs. Many of these compounded products such as Apomorphine and fomepazole are life-saving drugs and must be kept on hand for immediate administration when needed. Under the board's current rule, these necessary medications cannot be dispensed by a pharmacy unless the specific name and species of the patient is provided to the pharmacy in advance which, once again, the veterinarian may not have or know.

Compounding for office administration is specifically vital for animal shelters. Across Missouri, shelters take in mass numbers of pets on short notice, often when law enforcement raids puppy mills or other cat hoarding situations. These animals are often diseased and are held in close confines where outbreaks can easily spread. Shelter veterinarians have to treat large numbers on intake, often without any advance warning of which pets they will be treating, and in emergent conditions. Absence of the required compounded medication threatens the lives of not only the applicable pet/animal, but also other animals/pets being housed.

In September 2018, the Missouri Veterinary Medical Association (MVMA) asked the Missouri Board of Pharmacy to take emergency action to allow pharmacies to compound for veterinarian medication. MVMA informed the board that an increasing number of veterinarians were unable to find needed emergency medication to treat Missouri's agricultural population. Significantly, MVMA reported a number of these medications were unavailable from any other source due to manufacturer backorders or voluntary discontinuation of a proprietary veterinary drug from the market. The Board of Pharmacy was subsequently contacted by a number of veterinarians in November and December of 2018 who indicated they were unable to find needed emergency medication and asked the board to allow an exemption to the compounding for office use/administration restriction. In many cases, veterinarians reported agricultural patients were unable to get medical care because the practitioner did not have access to the compounded drugs they needed for office administration. In at least one (1) instance, a patient/animal death was suspected.

The Board of Pharmacy subsequently consulted with the Missouri Veterinary Medical Board to identify the appropriate solution to meet the emergency need resulting in the following emergency amendment. This emergency amendment is necessary to protect and preserve the lives of Missouri veterinary patients by allowing pharmacists to compound medication needed for emergency office use/administration. A corresponding emergency rule filed by the Missouri Pharmacy Board would allow pharmacies to compound medication for office use/administration by a Missouri licensed veterinarian. Adoption of these amendments through the ordinary rulemaking process will leave veterinarians in the state of Missouri without the ability to provide immediate and emergency treatment for patients in need of compounded medication.

*As a result, the Missouri Veterinary Medical Board and the Missouri State Board of Pharmacy jointly find that there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Missouri Veterinary Medical Board and the Missouri Board of Pharmacy believe this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed March 20, 2019, becomes effective March 30, 2019, and expires January 8, 2020.*

(3) Dispensed Drug Labeling.

(H) A veterinarian may dispense no more than a seven- (7-) day supply per patient from an office stock compounded preparation provided by a licensed pharmacy. A patient-specific prescription must be issued to continue treatment beyond seven (7) days and comply with all other requirements under this rule.

*AUTHORITY: sections 340.200 and 340.210, RSMo 2016. This rule originally filed as 4 CSR 270-4.031. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed March 20, 2019, effective March 30, 2019, expires Jan. 8, 2020. A proposed amendment covering the same material is published in this issue of the **Missouri Register**.*

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo 2016.

EXECUTIVE ORDER
19-05

WHEREAS, I have been advised by the State Emergency Management Agency that ongoing and forecast severe storm systems in conjunction with riverine flooding along the Missouri and Mississippi river systems as a result of releases from various Missouri River reservoirs due to record snow melt and excessive rain over both major river systems have caused, or have potential to cause, damages associated with high winds, heavy rains, flooding and flash flooding, and riverine flooding impacting communities throughout the state of Missouri; and

WHEREAS, interruptions of public services are occurring, or anticipated to occur, as a result of the severe weather and riverine flooding event that started on March 11, 2019, and are continuing; and

WHEREAS, the severe storm systems and riverine flooding that began on March 11, 2019, and continue have the potential to create a condition of distress and hazard to the safety, welfare, and property of the citizens of the state of Missouri beyond the capabilities of some local jurisdictions and other established agencies; and

WHEREAS, the state of Missouri will continue to be proactive where the health and safety of the citizens of Missouri are concerned; and

WHEREAS, the resources of the state of Missouri may be needed to assist affected jurisdictions and to help relieve the condition of distress and hazard to the safety and welfare of our fellow Missourians; and

WHEREAS, an invocation of the provisions of sections 44.100 and 44.110, RSMo, is required to ensure the protection of the safety and welfare of the citizens of Missouri:

NOW THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the state of Missouri, including sections 44.100 and 44.110, RSMo, do hereby declare that a State of Emergency exists in the state of Missouri and direct that the Missouri State Emergency Operations Plan be activated.

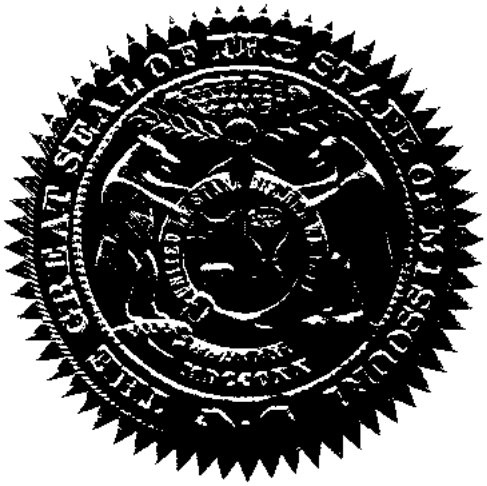
I further authorize the use of state agencies to provide assistance, as needed.

This order shall terminate on April 21, 2019, unless extended in whole or in part.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 21st day of March, 2019.

Michael L. Parson
Governor

ATTEST:



John R. Ashcroft
Secretary of State

EXECUTIVE ORDER
19-06

WHEREAS, on March 21, 2019, Executive Order 19-05 invoked the provisions of Sections 44.100 and 44.110, RSMo, and declared that a State of Emergency exists in the State of Missouri due to ongoing and forecast severe storm systems; and

WHEREAS, I have been advised by the State Emergency Management Agency that the severe weather has caused damages associated with high winds, hail, heavy rains, flooding, and flash flooding impacting communities throughout the State of Missouri; and

WHEREAS, the severe weather created a condition of distress and hazards to the safety and welfare of the citizens of the State of Missouri beyond the capabilities of some local jurisdictions and other established agencies; and

WHEREAS, the Missouri Department of Natural Resources is charged by law with protecting and enhancing the quality of Missouri's environment and with enforcing environmental rules and regulations; and

WHEREAS, in order to respond to the emergency and expedite the cleanup and recovery process, it is necessary to adjust certain environmental rules and regulations on a temporary and short-term basis.

NOW THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by Chapter 44, RSMo, do hereby issue the following order:

> The Director of the Missouri Department of Natural Resources is vested with full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under her purview in order to best serve the interests of the public health and safety during the period of the emergency and the subsequent recovery period.

This Order shall terminate on April 30, 2019, unless extended in whole or in part.

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 28th day of March, 2019.

Michael L. Parson
Governor

ATTEST:

John R. Ashcroft
Secretary of State