

Volume 45, Number 13
Pages 981-1054
July 1, 2020

SALUS POPULI SUPREMA LEX ESTO

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



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI
REGISTER

The *Missouri Register* is an official publication of the state of Missouri, under the authority granted to the secretary of state by sections 536.015 and 536.033, RSMo. Reproduction of rules is allowed; however, no reproduction shall bear the name *Missouri Register* or “official” without the express permission of the secretary of state.

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

JOHN R. ASHCROFT

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

EDITOR-IN-CHIEF

CURTIS W. TREAT

•

MANAGING EDITOR

JOHN C. STEGMANN

•

EDITOR

VONNE KILBOURN

•

ASSOCIATE EDITOR

JENNIFER ALEX MOORE

•

PUBLICATION SPECIALIST

JACQUELINE D. WHITE

•

ADMINISTRATIVE AIDE

TAMMY WINKELMAN

•

READER

THOMAS HUBER

ISSN 0149-2942

The *Missouri Register* and *Code of State Regulations* (CSR) are available on the Internet. The Register address is sos.mo.gov/adrules/moreg/moreg and the CSR is sos.mo.gov/adrules/csr/csr. The Administrative Rules Division may be contacted by email at rules@sos.mo.gov.

The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.



IN THIS ISSUE:

EMERGENCY RULES

Department of Social Services
 Children’s Division985
Department of Health and Senior Services
 Office of the Director985
 Division of Community and Public Health987

EXECUTIVE ORDERS988

PROPOSED RULES

Department of Conservation
 Conservation Commission992
Department of Elementary and Secondary Education
 Division of Learning Services993
Department of Natural Resources
 Hazardous Waste Management Commission994
Department of Social Services
 Family Support Division999
Retirement Systems
 The Public School Retirement System of Missouri1000
Department of Health and Senior Services
 Office of the Director1004
 Division of Regulation and Licensure1005
Department of Commerce and Insurance
 Public Service Commission1005

ORDERS OF RULEMAKING

Department of Agriculture
 Weights, Measures and Consumer Protection1018
Department of Conservation
 Conservation Commission1018
Department of Public Safety
 Missouri Gaming Commission1027

Department of Social Services
 MO HealthNet Division1028
Department of Health and Senior Services
 Division of Community and Public Health1029

IN ADDITIONS

Periodic Rule Review
 Office of Administration1030
 Department of Agriculture1030
 Department of Conservation1030
 Department of Economic Development1030
 Department of Elementary and Secondary Education1030
 Department of Higher Education and Workforce
 Development1030
Department of Natural Resources
 Safe Drinking Water Commission1031
Department of Health and Senior Services
 Division of Senior and Disability Services1032

DISSOLUTIONS1033

SOURCE GUIDES

RULE CHANGES SINCE UPDATE1037
EMERGENCY RULES IN EFFECT1043
EXECUTIVE ORDERS1045
REGISTER INDEX1047

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
March 2, 2020 March 16, 2020	April 1, 2020 April 15, 2020	April 30, 2020 April 30, 2020	May 30, 2020 May 30, 2020
April 1, 2020 April 15, 2020	May 1, 2020 May 15, 2020	May 31, 2020 May 31, 2020	June 30, 2020 June 30, 2020
May 1, 2020 May 15, 2020	June 1, 2020 June 15, 2020	June 30, 2020 June 30, 2020	July 30, 2020 July 30, 2020
June 1, 2020 June 15, 2020	July 1, 2020 July 15, 2020	July 31, 2020 July 31, 2020	August 30, 2020 August 30, 2020
July 1, 2020 July 15, 2020	August 3, 2020 August 17, 2020	August 30, 2020 August 30, 2020	September 30, 2020 September 30, 2020
August 3, 2020 August 17, 2020	September 1, 2020 September 15, 2020	September 30, 2020 September 30, 2020	October 30, 2020 October 30, 2020
September 1, 2020 September 15, 2020	October 1, 2020 October 15, 2020	October 31, 2020 October 31, 2020	November 30, 2020 November 30, 2020
October 1, 2020 October 15, 2020	November 2, 2020 November 16, 2020	November 30, 2020 November 30, 2020	December 30, 2020 December 30, 2020

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

HOW TO CITE RULES AND RSMO

RULES

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

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

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

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

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

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

Code and Register on the Internet

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

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

The *Register* address is 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. 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) business days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

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 13—DEPARTMENT OF SOCIAL SERVICES Division 35—Children’s Division Chapter 31—Child Abuse

EMERGENCY RULE

13 CSR 35-31.060 Child Abuse and Neglect Review Board Administrative Appeals by Teleconference

PURPOSE: This emergency rule allows the division to conduct all child abuse and neglect review board administrative appeals via teleconference or other means for 180 days without unnecessarily increasing the risks of spreading the transmission of the Covid-19 virus.

EMERGENCY STATEMENT: The Department of Social Services, Children’s Division finds that there is an immediate danger to the public health, safety or welfare requiring emergency action and that this emergency rule is necessary to preserve a compelling governmental interest as it allows the children’s division to conduct all child abuse and neglect review board administrative appeals telephonically or through other means during the state of emergency. This emergency rule limits its scope to the circumstances creating the emergency and complies with the protections extended by the *Missouri* and *United States Constitutions*. A proposed rule, which covers the same material, will be published in an upcoming issue of the *Missouri Register*. The Department of Social Services believes this emergency rule to be fair to all interested parties under the circum-

stances. The emergency rule was filed May 29, 2020, becomes effective June 12, 2020, and expires February 25, 2021.

(1) Notwithstanding any regulations to the contrary, the Child Abuse and Neglect Review Board may hold hearings by telephone conference or by other electronic means.

AUTHORITY: sections 207.020, 210.153, and 660.017, RSMo 2016, and section 210.145, RSMo Supp. 2019. Emergency rule filed May 29, 2020, effective June 12, 2020, expires Feb. 25, 2021. A proposed rule to 13 CSR 35-31.060 will be published in an upcoming edition of the *Missouri Register*.

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

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

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES Division 10—Office of the Director Chapter 15—Abortions

EMERGENCY AMENDMENT

19 CSR 10-15.060 Prohibition on Expenditure of Funds. The department is updating the rule purpose, replacing section (1), and removing sections (2), (3), and (4).

PURPOSE: The department is updating specific language in the rule purpose and rule body to align with HB2010, which is the Fiscal Year 2021 budget bill.

PURPOSE: [This rule defines terms used in House Bill 10, 100th General Assembly, First Regular Session, for purposes of expenditures by the Department of Health and Senior Services.] This rule outlines how the Department of Health and Senior Services ensures that expenditures are compliant with annual General Assembly budget bills.

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.

EMERGENCY STATEMENT: House Bill 2010, 100th General Assembly, Second Regular Session (“HB2010”), contains the authority of the Department of Health and Senior Services (“Department”) to spend funds for state fiscal year 2021. State fiscal year 2021 begins and HB2010 takes effect July 1, 2020. This rule must be updated to give notice to entities that receive funds from the Department for providing services of the particular prohibitions on expenditures of funds as designated by the Legislature. Some entities that received funds in state fiscal year 2020 may become ineligible to receive funds in state fiscal year 2021. Other entities that were ineligible to receive funds in state fiscal year 2020 may remain ineligible to receive funds in state fiscal year 2021. This rule must also be in effect to ensure that there is not a lapse in claims being paid to providers and so that

the Department does not expend funds in violation of HB2010 and Article IV, Section 28 of the Missouri Constitution. The regular rulemaking process takes several months, and state fiscal year 2021 would be more than half over by the time regular rules would take effect. In the interim, for several months, the Department's ability to expend funds for a variety of health services could be impaired. Impairment of the ability to expend funds for health services could compromise the Department's ability to protect the public health and welfare. Further, if the Department does not update the terms and phrases by emergency amendment, the Department may be subject to legal challenges and attorney fees for having inaccurate rule references. Moreover, such a rule may be unenforceable. Thus, if the Department does not formally promulgate an emergency amendment, it may not be able to timely and effectively implement HB2010. Finally, as expressed in the laws of the State of Missouri, the State has a compelling governmental interest in protecting the sanctity of human life. Ensuring that no State funds are expended in support of abortion, as expressed in HB2010, furthers that compelling governmental interest. The Department finds an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed May 22, 2020, becomes effective June 8, 2020, and expires February 25, 2021.

[(1) Definitions.

(A) Affiliate of any clinic, physician's office, or any other place or facility in which abortions are performed or induced (as used in section 10.1100 of HB 10 and this regulation)—factors to be considered in making this determination include, but are not limited to: an organization or location that shares, or has in common, any resource with any clinic, physician's office, or any other place or facility in which abortions are performed or induced including, but not limited to, operating funds, bank accounts, facilities, employees, service contracts, equipment, mailing lists, trademarks, copyrights, service marks, brands, trade names, financial reporting, marketing, advertising, websites, information and education materials, or any other assets.

(B) Associate of any clinic, physician's office, or any other place or facility in which abortions are performed or induced (as used in section 10.1100 of HB 10 and this regulation)—factors to be considered in making this determination include, but are not limited to: an organization or location that shares an organizational structure with any clinic, physician's office, or any other place or facility in which abortions are performed or induced including, but not limited to, parent, subsidiary, or sister organizations; or an organization or location with common or interlocking management, ownership, or governance with any clinic, physician's office, or any other place or facility in which abortions are performed or induced; or an organization or location with the public appearance of association with any clinic, physician's office, or any other place or facility in which abortions are performed or induced, such as a shared name, or part of a name; an alliance or federation with an organization or location that is commonly identified as an advocate for abortion; or that holds itself out, has held itself out, or refers to itself publicly in a way that demonstrates a connection to an organization or location that is commonly identified as any clinic, physician's office, or any other place or facility in which abortions are performed or induced.

(C) Counsels women to have an abortion (as used in sec-

tion 10.1005 of HB 10)—in the absence of an exception required by federal law, includes, but is not limited to, encouraging a patient to have an abortion, referring a patient for an abortion, or providing a patient with information encouraging her to have an abortion.

(D) Program (as used in section 10.1005 of HB 10)—a project, service, or activity administered by the department.

(E) Referring a patient for an abortion (as used in section 170.015, RSMo, for purposes of section 10.725 of HB 10)—does not include providing comprehensive, factual information regarding options, so long as the information is provided for all of the options and in a neutral manner. Also does not include providing contact information, so long as the contact information is provided for all of the options and in a neutral manner. Other actions, such as assisting with making an appointment or assisting with transportation, constitute referring a patient for an abortion.

(2) The department shall not expend any funds to any clinic, physician's office, or any other place or facility in which abortions are performed or induced other than a hospital, including an abortion facility as defined in section 188.015, RSMo, or any affiliate or associate of any such clinic, physician's office, or place or facility in which abortions are performed or induced other than a hospital, as determined by the department in accordance with this regulation.

(3) The department shall not expend any funds on any program that, in the absence of an exception required by federal law, performs abortions or counsels women to have an abortion.

(4) After July 1, 2019, no claims for payment shall be submitted by a provider until the provider submits the form provided by the department declaring that the provider will not submit claims for payment that violate HB 10. A copy of the form can be requested by contacting the department.]

(1) After July 1 of each calendar year, no claims for payment shall be submitted by any provider until that provider submits the requisite form issued by the department to be used for the upcoming fiscal year. Such form shall contain the applicable provisions related to legislative authority regarding expenditure of funds, including but not limited to, definitions, restrictions, and prohibitions. Such form shall also contain a declaration to be executed by the provider, which shall state that said provider will not submit claims for payment that violate the applicable provisions related to the legislative authority regarding expenditure of funds. This form shall be effective from the date that the department receives a provider's executed copy until a new form is issued by the department. A copy of this form can be requested by contacting the department.

AUTHORITY: section 192.006, [RSMo 2016, and House Bill 10, 100th General Assembly, First Regular Session] **House Bill 2010, Second Regular Session, One hundredth General Assembly, 2020.** Emergency rule filed July 5, 2018, effective July 15, 2018, expired Feb. 28, 2019. Original rule filed July 5, 2018, effective Feb. 28, 2019. Emergency amendment filed June 21, 2019, effective July 1, 2019, expired Feb. 27, 2020. Amended: Filed June 21, 2019, effective Jan. 30, 2020. Emergency amendment filed May 22, 2020, effective June 8, 2020, expires Feb. 25, 2021. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

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

**Division 20—Division of Community and Public Health
Chapter 20—Communicable Diseases**

ORDER TERMINATING EMERGENCY AMENDMENT

By the authority vested in the Missouri Department of Health and Senior Services under section 192.020, RSMo 2016, the department hereby terminates an emergency amendment effective May 20, 2020, as follows:

19 CSR 20-20.050 Quarantine or Isolation Practices and Closing of Schools and Places of Public and Private Assembly **is terminated.**

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on May 1, 2020 (45 MoReg 577-578).

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



State of Missouri

Governor's Proclamation

WHEREAS, citizens of the State of Missouri have filed an initiative petition containing the requisite number of signatures and compliant in all other respects with Section 50 of Article III of the Missouri Constitution and Chapter 116 of the Revised Statutes of Missouri, directing that at the next general election to be held in the State of Missouri, on Tuesday next following the first Monday in November, 2020, or at a special election to be called by the Governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following question:

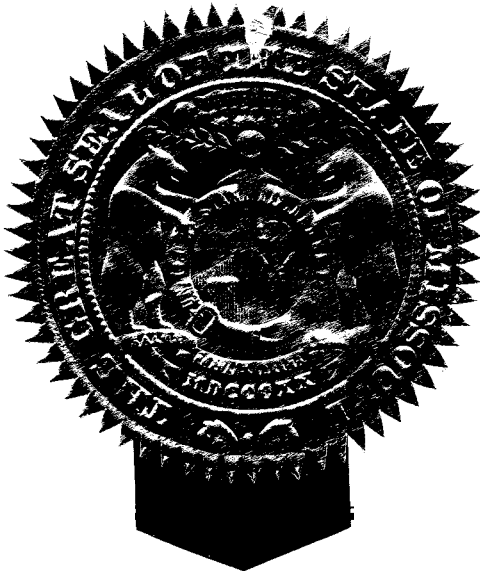
Do you want to amend the Missouri Constitution to:

- Adopt Medicaid Expansion for persons 19 to 64 years old with an income level at or below 133% of the federal poverty level, as set forth in the Affordable Care Act;
- Prohibit placing greater or additional burdens on eligibility or enrollment standards, methodologies or practices on persons covered under Medicaid Expansion than on any other population eligible for Medicaid; and
- Require state agencies to take all actions necessary to maximize federal financial participation in funding medical assistance under Medicaid Expansion?

State government entities are estimated to have one-time costs of approximately \$6.4 million and an unknown annual net fiscal impact by 2026 ranging from increased costs of at least \$200 million to savings of \$1 billion. Local governments expect costs to decrease by an unknown amount.

NOW, THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the state of Missouri, do hereby call a special election to be held in this state on the 4th day of August, 2020, to be conducted in the manner provided by law, at which special election there shall be submitted to the qualified voters, by its ballot title, the foregoing proposed constitutional amendment, the same to appear on a separate ballot without party designation, and to be so submitted as to enable the electors to vote on the proposed amendment separately, as required by Section 2(b) of Article XII of the Constitution of Missouri.

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 26th day of May, 2020.



Michael L. Parson
GOVERNOR

ATTEST:

SECRETARY OF STATE

**EXECUTIVE ORDER
20-11**

WHEREAS, our citizens have the right to peacefully assemble and protest and the State of Missouri is committed to protecting the lawful exercise of the citizens' constitutional rights; and

WHEREAS, despite the many peaceful assemblies throughout this State, there are other events occurring in the Cities of Kansas City, St. Louis, and surrounding areas, in the State of Missouri, that have created or may create conditions of distress and hazards to the safety, welfare, and property of the residents and visitors of the communities beyond the capacities of local jurisdictions and other established agencies; and

WHEREAS, the rule of law must be maintained in the Cities of Kansas City, St. Louis, and surrounding areas for the protection, safety, welfare, and property of the citizens, visitors, and businesses of those communities; and

WHEREAS, additional resources of the State of Missouri are needed to help relieve the conditions of distress and hazard to the safety and welfare of the citizens of the Cities of Kansas City, St. Louis, and surrounding areas; and

WHEREAS, the conditions necessary to declare the existence of an emergency pursuant to Chapter 44, RSMo, are found to exist due to this civil unrest; and

WHEREAS, an invocation of the provisions of Sections 44.010 through 44.130, RSMo, is necessary to ensure the safety and welfare of the citizens of the State of Missouri; and

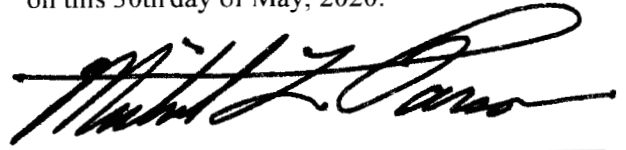
WHEREAS, in consultation with community leaders, public safety officials, and emergency preparedness officials, I have determined that the following actions are necessary and appropriate to provide for the safety and welfare of Missouri's residents, visitors, and private property.

NOW, THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and Laws of the State of Missouri, including Sections 44.010 through 44.130, RSMo, do hereby declare that a State of Emergency exists in the State of Missouri due to civil unrest.

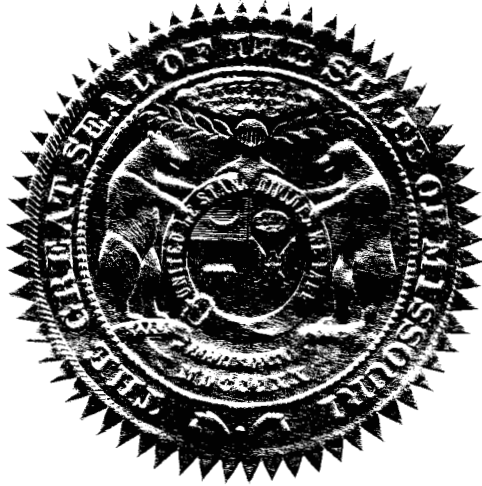
I further order, pursuant to Sections 41.480 and 41.690, RSMo, the Adjutant General of the State of Missouri, or his designee, to forthwith call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and it is further ordered and directed that the Adjutant General or his designee, and through him, the commanding officer of any unit or other organization of such organized militia so called into active service take such action and employ such equipment as may be necessary in support of civilian authorities, and provide such assistance as may be authorized and directed by the Governor of this state.

This Order shall be terminated upon execution of a subsequent Executive Order.

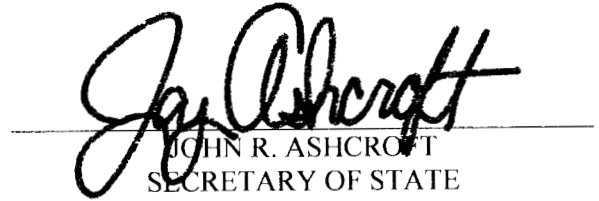
IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 30th day of May, 2020.



MICHAEL L. PARSON
GOVERNOR



ATTEST:



JOHN R. ASHCROFT
SECRETARY OF STATE

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

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

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

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

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

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

private, or in any field, woodland, or forest, by any person acting either singly or as one (1) of a group of persons. *This section shall not apply to the use of a light by a landowner as defined in this Code on property under his/her control.*], **except, this section shall not apply to the following:**

(A) **The use of an artificial light to search for, spot, and locate raccoons or other furbearing animals when treed with the aid of dogs;**

(B) **The use of an artificial light to search for, spot, and locate coyotes from February 1 through March 31, but only as specifically authorized by 3 CSR 7.410(1)(B)2.; and**

(C) **The use of an artificial light by a resident or nonresident landowner as defined in 3 CSR 10-20.805 on his/her property.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 26, 1964, effective Dec. 31, 1964. For intervening history, please consult the Code of State Regulations. Amended: Filed May 29, 2020.

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-7.410 Hunting Methods. The commission proposes to amend subsections (1)(B), (1)(C), and (1)(L) of this rule.

PURPOSE: This amendment establishes an exception for landowners owning real property of any size and their authorized representatives to possess, control, and use night vision, infrared, and thermal imagery equipment to kill feral swine while in possession of any implement whereby wildlife could be killed or taken, and authorize the use of an artificial light or night vision, infrared, or thermal imagery equipment in conjunction with other legal hunting methods to pursue and take coyotes from February 1 through March 31.

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

(B) Artificial Light. No person shall throw or cast the rays of a spotlight, headlight, or other artificial light on any highway or roadway, whether public or private, or in any field, woodland, or forest for the purpose of spotting, locating, or attempting to take or hunt any game animal, *except raccoons or other furbearing animals when treed with the aid of dogs,* while having in possession or control, either singly or as one (1) of a group of persons, any firearm, bow, or other implement whereby game could be; **killed or taken, except as follows:**

1. An artificial light may be used to spot, locate, attempt to

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

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

PROPOSED AMENDMENT

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

PURPOSE: This amendment specifically authorizes the use of an artificial light to search for, spot, and locate coyotes as specifically authorized by 3 CSR 10-7.410 from February 1 through March 31.

(5) Wildlife, *except raccoons or other furbearing animals when treed with the aid of dogs,* may not be searched for, harassed, or disturbed in any manner with the aid of an artificial light, headlight, or spotlight from any roadway, whether public or

take, and hunt raccoons or other furbearing animals when treed with the aid of dogs while in possession or control of a firearm, bow, or other implement whereby any game animal could be killed or taken during the prescribed furbearer hunting season;

2. An artificial light may be used to spot, locate, attempt to take, and hunt coyotes while in possession or control of a firearm, bow, or other implement whereby any game animal could be killed or taken from February 1 through March 31, but only in conjunction with other legal hunting methods, and not from or with any motor-driven air, land, or water conveyance or from or across a public roadway;

(C) Night Vision, Infrared, and Thermal Imagery Equipment. Wildlife may not be pursued or taken with the aid of night vision, infrared or thermal imagery equipment and [N]no person may possess or control night vision, infrared, or thermal imagery equipment while acting singly or as one (1) of a group of persons while in possession of any firearm, bow, or other implement whereby wildlife could be killed or taken, except [by written authorization of an agent of the department and only as specifically authorized by him/her:] as follows:

1. Landowners and their authorized representatives may possess or control and use night vision, infrared, or thermal imagery equipment while in possession of a firearm, bow, or other implement whereby wildlife could be killed or taken on such landowner's property to kill feral swine. For the purposes of this paragraph, a "landowner" is any person (including residents and non-residents) owning real property of any size and an "authorized representative" is any person who has permission from a landowner to be present on the landowner's property;

2. Hunters properly licensed to take furbearers may possess or control and use night vision, infrared, and thermal imagery equipment to take coyotes from February 1 through March 31, but only in conjunction with other legal hunting methods. The use of night vision, infrared, or thermal imagery equipment to pursue or take coyotes from or with a motor-driven air, land, or water conveyance, or from or across a public roadway is specifically prohibited;

3. Any person may possess or control and use night vision, infrared, or thermal imagery equipment while in possession of any firearm, bow, or other implement whereby wildlife could be killed or taken with written authorization of an agent of the department, but only as specifically authorized by him/her;

(L) Electronic Calls. Electronic calls may be used to pursue and take crows and furbearers, but without the aid of an artificial light or night vision, infrared, or thermal imagery equipment, except when pursuing or taking coyotes in accordance with paragraphs (1)(B)2. and (1)(C)2. of this section. Electronic calls or electronically-activated calls may not be used or possessed while hunting other species of wildlife except as specifically authorized;

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo [2000] 2016. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed May 29, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of

this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality**

PROPOSED RESCISSION

5 CSR 20-400.160 Application for Certificate of License to Teach for Administrators. This rule outlined the procedures for application for a certificate of license to teach for school administrators.

PURPOSE: This rule is being rescinded due to current requirements being contained within 5 CSR 20-400.610.

AUTHORITY: sections 161.092, 168.021, 168.071, 168.081, and 168.400, RSMo Supp. 2011, and sections 168.011, 168.405, and 168.409, RSMo 2000. This rule previously filed as 5 CSR 80-800.220. Original rule filed April 26, 2000, effective Nov. 30, 2000. For intervening history, please consult the Code of State Regulations. Rescinded: Filed May 18, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, ATTN: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email to educatorquality@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality**

PROPOSED RESCISSION

5 CSR 20-400.170 Application for a Student Services Certificate of License to Teach. This rule outlined the procedures for application for a student services certificate of license to teach.

PURPOSE: This rule is being rescinded due to current requirements being contained within 5 CSR 20-400.640.

AUTHORITY: sections 161.092, 168.021, 168.071, 168.081, and 168.400, RSMo Supp. 2011, and section 168.011, RSMo 2000. This rule previously filed as 5 CSR 80-800.230. Original rule filed April 26, 2000, effective Nov. 30, 2000. For intervening history, please consult the Code of State Regulations. Rescinded: Filed May 18, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, ATTN: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email to educatorquality@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality**

PROPOSED RESCISSION

5 CSR 20-400.190 Application for a Career Education Certificate of License to Teach. This rule outlined the procedures for application for a career education certificate of license to teach.

PURPOSE: This rule is being rescinded due to current requirements being contained within 5 CSR 20-400.660; 5 CSR 20-400.670; and 5 CSR 20-400.680.

AUTHORITY: sections 161.092, 168.021, 168.071, and 168.081, RSMo Supp. 2011, and section 168.011, RSMo 2000. This rule previously filed as 5 CSR 80-800.270. Original rule filed April 26, 2000, effective Nov. 30, 2000. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed May 18, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, ATTN: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email to educatorquality@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality**

PROPOSED RESCISSION

5 CSR 20-400.200 Application for an Adult Education and Literacy Certificate of License to Teach. This rule outlined the procedures for application for an adult education and literacy certificate of license to teach.

PURPOSE: This rule is being rescinded due to current requirements being contained within 5 CSR 20-400.700.

AUTHORITY: sections 161.092, 168.021, 168.071, and 168.081, RSMo Supp. 2011, and section 168.011, RSMo 2000. This rule previously filed as 5 CSR 80-800.280. Original rule filed April 26, 2000, effective Nov. 30, 2000. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed May 18, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, ATTN: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email to educatorquality@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 12—Hazardous Waste Fees and Taxes**

PROPOSED AMENDMENT

10 CSR 25-12.010 Fees and Taxes. The commission proposes to amend section (1) of the rule by removing a reference to subsection (G), and removing subsection (G) in its entirety.

PURPOSE: This amendment removes a new subsection of this rule that would have established a temporary fee structure. The new subsection was disapproved by the Missouri General Assembly. The Department filed an emergency amendment on March 12, 2020, which was effective March 27, 2020, and expires September 22, 2020. The emergency amendment effectively stopped the temporary fee structure from going into effect on March 31, 2020. The Department is proposing this amendment, in accordance with section 260.380, RSMo, to facilitate the continued use of the prior fee structure. This proposed amendment permanently removes the fee increase disapproved by Senate Concurrent Resolution 38.

(1) Hazardous Waste Fees Applicable to Generators of Hazardous Waste. The fees in this section apply notwithstanding any conflicting language in any other rule regarding the amount of any of the fees listed in this section.

(E) Registration Fee. A generator subject to registration in accordance with 10 CSR 25-5.262 shall pay the following registration fees[, except as specified below in subsection (1)(G)]:

1. All new generator registration and renewal fees will be based upon the generator status of the generator. The fee schedule is as follows:

A. A generator registering as a Large Quantity Generator shall pay a registration fee of five hundred dollars (\$500);

B. A generator registering as a Small Quantity Generator shall pay a registration fee of one hundred fifty dollars (\$150); and

C. A generator registering as a Conditionally Exempt Small Quantity Generator shall pay a registration fee of one hundred fifty dollars (\$150);

2. A registration fee will be paid with the submittal of the registration form required by 10 CSR 25-5.262 when one (1) of the following is true:

A. The generator is applying for a new ID number (initial registration);

B. The generator is reactivating an existing ID number that had been inactivated;

C. There has been a change in the ownership of the generator (initial registration for the new company); and

D. Any generator who changes their generator status to a status that has a higher registration fee than the fee that the generator

has already paid for the year as required by this subsection shall pay the difference between the registration fee for the current status and the registration fee of the new status;

3. The following constitutes the procedure for registration renewal:

A. The amount of the registration renewal fee is also based upon the generator status of the generator at the time the invoice is generated and uses the same schedule as the registration fee;

B. The calendar year shall constitute the annual registration period;

C. Annual registration renewal billings will be sent by December 1 of each year to all generators holding an active registration;

D. Any generator initially registering between October 1 and December 31 of any given year shall pay the initial registration fee, but not the annual renewal fee for the calendar year immediately following their initial registration. From that year forward, they shall pay the annual renewal fee;

E. Any generator subject to registration who fails to pay the annual renewal fee by the due date specified on the billing shall be administratively inactivated and subject to enforcement action for failure to properly maintain their registration;

F. Generators administratively inactivated for failure to pay the renewal fee in a timely manner, who later in the same registration year pay the annual renewal fee, shall pay a fifteen percent (15%) late fee in addition to the annual renewal fee for each applicable registration year and shall file an updated generator registration form with the department before their registration is reactivated by the department;

G. Generators who request that their registration be made inactive rather than pay the renewal fee, who later in that same renewal year pay the annual renewal fee to reactivate their registration, shall pay a fifteen percent (15%) late fee in addition to the annual renewal fee and file an updated generator registration form with the department before their registration is reactivated by the department; and

H. The department will immediately revoke the registration of any person who pays the annual renewal fee with what is found to be an insufficient check; and

4. Large quantity generator registration renewal petition process. A generator may petition to have a single large quantity generator registration renewal fee cover multiple generator sites with different ID numbers as long as at least one (1) generator site is a large quantity generator and the generator can demonstrate to the satisfaction of the department that each of the following conditions has been met:

A. All of the generator sites are owned or leased by the same person and all are under control of the same person;

B. The generator provides a single point of contact for all generator sites within the group;

C. Each generator site is adjacent to a property that also shares a border with at least one (1) other generator site in the group, or all generator sites are accessible by a common roadway, or all generator sites are within the recognized boundaries of an industrial park, warehouse district, research campus, or academic campus, provided that all generator sites are in close proximity to one another and can be inspected as a single facility;

D. The generator submits a map that shows the location of each generator site covered by the single registration fee;

E. All of the generator sites share a single contingency plan, a single repository for required records, and a unified training plan that covers all of the large quantity and small quantity generator sites; and

F. The generator must submit an updated petition and map any time a generator site is added to or removed from the group and each generator site must have an existing ID number before it can be added to the group[.];

[(G) Temporary fee structure for registration and renewal

fees for calendar years 2021 and 2022 only. The fee structure established below is in place for calendar years 2021 and 2022.

1. All new generator registration and registration renewal fees accruing before January 1, 2021, will be assessed at the amounts established in 10 CSR 25-12.010(1)(E)1.A. through (1)(E)1.C. All new generator registration and registration renewal fees accruing during calendar years 2021 and 2022 will be assessed by the department at the following rates:

A. A registration fee not to exceed one thousand one hundred and fifty dollars (\$1150) for a generator registering as a Large Quantity Generator;

B. A registration fee not to exceed three hundred and sixty dollars (\$360) for a generator registering as a Small Quantity Generator; and

C. A registration fee not to exceed one hundred seventy-five dollars (\$175) for a generator registering as a Conditionally Exempt Small Quantity Generator.

D. All new generator registration and registration renewal fees accruing on or after January 1, 2023, will revert back to the amounts established in 10 CSR 25-12.010(1)(E)1.A. through (1)(E)1.C.

2. Registration renewal fees for owners of multiple hazardous waste generator ID numbers.

A. For individuals or companies that own multiple sites for which they obtain hazardous waste ID numbers, the fees established in this section will only be assessed on—

(I) The first 5 Large Quantity Generator ID numbers; and

(II) The first 10 Small Quantity Generator ID numbers; and

(III) The first 15 Conditionally Exempt Small Quantity Generator ID numbers.

B. The remainder of the hazardous waste generator ID numbers will be assessed the regular registration renewal fee established in 10 CSR 25-12.010(1)(E)1.A. through (1)(E)1.C.

C. Generators are responsible for providing documentation required to verify common ownership of the multiple hazardous waste ID numbers and also for providing a list of all of their ID numbers and indicate which ID numbers are to be assessed the temporary rates established in this section, as well as which ID numbers will be assessed at the rates established in 10 CSR 25-12.010(1)(E)1.A. through (1)(E)1.C.

3. Registration renewal fees for owners of multiple underground storage tank (UST) sites.

A. For individuals or companies that own a single site where an underground storage tank is removed in a calendar year, the hazardous waste generator registration fee for the site will be assessed at the appropriate amount under the temporary fee structure established above in section 10 CSR 25-12.010(1)(G)1.

B. For individuals or companies that own two or more sites where underground storage tanks were removed in the same calendar year, the hazardous waste generator registration fee for all remaining tank removals within the same calendar year will be assessed the regular registration renewal fee established in 10 CSR 25-12.010(1)(E)1.A. through (1)(E)1.C.

C. Tank owners claiming this discount are responsible for providing documentation required to verify common ownership of the multiple underground storage tank sites and also for providing a list of all of their ID numbers that describes which ID number is to be assessed under the temporary fee structure and which ID number(s) are to be assessed under the regular registration renewal fee.

4. All new generator registrations and reactivations of ID numbers accruing during calendar years 2021 and 2022 shall pay the full amount established in the temporary fee structure.]

AUTHORITY: sections 260.370, 260.390, 260.395, and 260.437, RSMo 2016, and sections 260.380, 260.391, and 260.475, RSMo Supp. 2019. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed March 12, 2020, effective March 27, 2020, expires Sept. 22, 2020. Amended: Filed May 29, 2020.

PUBLIC COST: The total cost of this proposed amendment is five hundred four thousand two hundred forty dollars (\$504,240) for calendar year 2021 and five hundred four thousand two hundred forty dollars (\$504,240) for calendar year 2022, with a total cost of \$1,008,480 in generator fee revenue lost.

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, 1101 Riverside Drive, Jefferson City, Missouri. To be considered, comments will be received until August 14, 2020. A teleconference public hearing is scheduled for 1:00 p.m. August 7, 2020. Due to recent concerns regarding the novel coronavirus, or COVID-19, only remote participation is available. To participate call 866-230-0963.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Natural Resources
Division Title: Hazardous Waste Management Commission
Chapter Title: Hazardous Waste Fees and Taxes**

Rule Number and Name:	10 CSR 25-12.010 Hazardous Waste Fees and Taxes
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Natural Resources	\$1,008,480

III. WORKSHEET

This amendment removes rule language that would have established a temporary two-year increase of the hazardous-waste generator registration fee, beginning on January 1, 2021. For calendar years 2021 and 2022, the Missouri Department of Natural Resources was projected to receive additional revenue from the increased fee in the amount of \$504,240 per year for two years.

Hazardous-waste generator registration and renewal fee - increased from \$150 to \$175 for conditionally-exempt small quantity generators; from \$150 to \$360 for small quantity generators; and from \$500 to \$1,150 for large quantity generators.

Generator Registration Fee Calculations

The temporary increase in the hazardous-waste generator registration fee would have generated \$599,970 per year for two years, minus a discounted amount of \$95,730 for generators claiming the multiple ID number discount. The net revenue increase would have equaled \$504,240 to the Department per year for two years. The Department was projected to receive an additional amount from each generator category as follows:

\$599,970 from CESQGs, SQGs, and LQGs minus \$95,730 in discounts for generators with multiple ID numbers equals \$504,240 net revenue to the Department per year for two years

$\$504,240 \times 2 = \$1,008,480$ less revenue for calendar years 2021 and 2022

Multiple hazardous waste ID number discount

- The language being removed by this amendment would have provided a discount from the hazardous-waste generator registration fee for certain hazardous-waste generators who are responsible for multiple hazardous-waste generator ID numbers.
- The Department estimated that a certain number of CESQGs, SQGs, and LQGs would have been eligible for and would have claimed the discount provided in the rule.
- The rule stated that the increased rates would only apply to the first five LQGs, 10 SQGs, and 15 CESQGs, with the remainder to be assessed at the regular rates.
- To determine how many generators in each category would have qualified for the discount, the Department queried the hazardous-waste generator database to determine how many generators within each generator category shared common ownership information.
- Based on that query, the Department determined a total of four LQGs, five SQGs, and three CESQGs owned multiple ID numbers and would have qualified for the discount.
- For the purposes of this fiscal note, the Department assumed that all eligible generators within each category would have claimed the discount.
- The discount would have reduced the revenue generated in the following amounts for each generator category:
 - A total of \$1,700 for CESQGs
 - A total of \$34,230 for SQGs
 - A total of \$59,800 for LQGs

IV. ASSUMPTIONS

The Department assumes that the estimated amount of additional revenue from the generator registration and renewal fee for each category of generators is a reasonable estimate. For the generator registration and renewal fee estimates, the Department queried the database to determine the current number of registered generators. Because generators are registering and inactivating their registrations on a daily basis, generator numbers can vary from day to day and from week to week. Because current numbers were used to provide the estimates in this fiscal note, the number of generators in each category and the associated amount of additional revenue expected to be generated from the revised registration and renewal fees on those generators is slightly different from the projections the Department used during the Hazardous Waste Fee Stakeholder Workgroup process. The numbers are also slightly different from those used in the workgroup process, because to prepare the estimates for the workgroup, the Department used actual revenues collected from the registration and renewal fee. Actual revenues may be slightly different from projected revenues because they do not include fees that are due but are not collected, and also include some revenues that were due in previous years.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter [3] 108—[County Reimbursement] Child Support
Program, Counties under Cooperative Agreement

PROPOSED AMENDMENT

13 CSR 40-[3.010]108.010 Reimbursable Expenditures. The division is moving the rule, fixing the incorporation by reference language, and amending all sections.

PURPOSE: This amendment updates terminology and moves the rule from Title 13, Division 40—Family Support Division, Chapter 3 to Title 13, Division 40—Family Support Division, Chapter 108.

(1) Definitions. *[As used in this regulation—]*

(A) “Division” means the Family Support Division[;].

(B) “State agency” means the Missouri Department of Social Services[;].

(C) “Director” means the person serving as director of the Missouri Family Support Division.

(2) Cooperative Agreements. To qualify for federal financial participation, a city or county must have entered into a cooperative agreement with the *[division] state agency and must submit a budget for approval from the director or his/her designee.* Under section 454.405, RSMo, the director shall offer cooperative agreements to city or county governing bodies or officers, including, but not necessarily limited to, circuit courts, circuit clerks, and prosecuting attorneys. Federal financial participation shall be available for costs incurred as of the first day of the calendar quarter in which a cooperative agreement or amendment is signed by all parties, provided the party claiming reimbursement files timely and proper claims. The division shall set the standards where claims **that the county submits** for reimbursement are deemed timely and properly filed. Cooperative agreements shall provide, at a minimum, for—

(D) The division to reimburse the county at the applicable federal rate from monies received from the federal government for reasonable and necessary costs, as determined by the director **or his/her designee**, associated with the establishment and enforcement of support obligations by the city or county or, if applicable, the multiple-county unit; and

(3) Activities for Which Federal Funds are Available. Federal funds are available at the applicable rate for reasonable and necessary costs, as determined by the director **or his/her designee**, for the following activities:

(A) Establishment of paternity upon referral from the division. Reimbursable activities include reasonable and necessary attempts to determine the identity of the child’s father, such as investigation; the development of evidence, including the use of *[blood tests] genetic tests*; pre-trial discovery; court proceedings or other actions necessary to establish paternity under procedures established by state statutes or regulations having the effect of law; and referral of cases to other states’ child support enforcement agencies to establish paternity, when necessary;

(B) Establishment and enforcement of support obligations upon referral from the division. These activities include investigation, development of evidence, and, when appropriate, bringing court actions; determination of child support obligation amounts, including the development of information that is needed for financial assessments; establishment of medical support obligations when they will not reduce *[absent parents’] the obligor’s* abilities to pay current child support; referral of cases to other states’ child support enforcement agencies to establish **or modify** child support obligations when necessary; enforcement of child and spousal support obligations, including those activities associated with collection and enforcement of court orders, issuance of warrants, *[wage] income* withholding or

other civil or criminal actions, as necessary; **and** investigation and prosecution of fraud related to child and spousal support; *[and defense of modification proceedings and other legal actions related to support obligations that have been assigned to the state under section 208.040, RSMo, or that the division is enforcing under section 454.425, RSMo;]*

[(C) Collection, recording, and disbursement of child and spousal support collections under sections 454.415 and 454.430, RSMo, including collections made for other states’ child support enforcement agencies;]

[(D)](C) Establishment and maintenance of case records as required by federal regulations and the division;

[(E)](D) Activities related to requests for certification of collection of support delinquencies by the secretary of the treasury under 45 CFR 303.71;

[(F)](E) Reasonable and essential short-term training of court and law enforcement staff assigned on a full- or part-time basis to child support enforcement activities, provided that prior written approval is obtained from the director **or his/her designee**;

[(G)](F) Necessary travel expenses relating to the performance of reimbursable child support enforcement activities, **if permitted under federal regulation**, provided that prior approval for out-of-state travel is obtained from the director **or his/her designee**. The same spending limitations that the division imposes on its employees for subsistence and other expenses will apply to county and court staff claims;

[(H)](G) Expenses related to indirect costs, as provided in the Office of Management and Budget Circular A-87;

[(I)](H) Activities directly related to the successful completion of referred cases; and

[(J)](I) Activities that have received prior approval for reimbursement by the division.

(4) Activities for Which Federal Funds Are Not Available. Federal funds are not available for the following activities:

[(F) Costs associated with the processing of interstate referrals which a county receives directly from other states’ child support enforcement agencies. Upon receipt, counties must forward referrals to the division’s Interstate Collections Unit. Costs associated with interstate cases become reimbursable only upon referral from the division;]

[(G)](F) Costs associated with otherwise reimbursable activities in the absence of adequate documentation as required by the division or by federal regulations;

[(H)](G) Costs of arrest and incarceration when no purchase of service agreement exists;

[(I)](H) Costs associated with construction and major renovations;

[(J)](I) Costs of space rental in publicly owned buildings;

[(K)](J) Personnel expenses for employees whose wages or salaries are paid for with other federal funds not eligible as match for IV-D funds; **and**

[(L) Any costs that a parent reimburses through fees or payments, including interest earned on undisbursed child support payments and recovered blood testing costs; and]

[(M)](K) Educational and training programs and educational expenditures, except direct costs of short-term training as allowed by federal regulations and with the division’s prior approval.

(5) Additional Criteria or Prerequisites for Claiming Certain Reimbursable Expenses.

(A) Rent. The director’s **or his/her designee’s** written approval shall be required for participation in the cost of rent in the private sector. Counties can claim these costs only if public space is unavailable; the county actually incurs the expense by the actual expenditure of county general revenue; the county also participates in the rent costs for private space in which other public work is conducted; and rental costs claimed do not exceed the market value established in the community by competitive bid. When rent is paid to a county official, the

county shall provide documentation of compliance with sections 105.454(2) and (3), RSMo.

(B) *[Blood]* Genetic Testing Costs. Costs of *[blood]* genetic tests used to establish paternity are reimbursable at the applicable rate for federal financial participation. The prosecuting attorney *[shall]* may seek recovery of *[blood]* genetic testing costs from the putative or alleged parent. When collected, *[the recovery costs must be shared with the division, at the same applicable rate, as a credit to current claims or]* the prosecutor must remit~~ted~~ the recovered costs by check to the director.

(C) Travel and Subsistence. In those instances where county subsistence maximums are less than state maximums, **only** these costs **actually incurred by the county** can be claimed, *[only]* up to the state maximum *[cost actually incurred by the county]*.

(D) Equipment Purchases. Equipment, for the purpose of this rule, is nonexpendable personal property with an initial cost of *[twenty-five hundred dollars] two thousand five hundred (\$2,500)*. Reimbursement for equipment shall be available only through straight-line depreciation. The depreciation claimed will be based on the Internal Revenue Service's Table of Class Lives and Recovery Periods set forth in Publication 946, How to Depreciate Property, *[dated 2007,]* which is incorporated *[herein]* by reference and made a part of this rule as published by the Department of Social Services, Child Support Program 205 Jefferson St. Jefferson City, MO 65101, at its website at <https://dssruletracker.mo.gov/dss-proposed-rules/welcome.action> on June 1, 2020. *[A copy of the information may be obtained from the Internal Revenue Service, 3702 W. Truman Blvd., Jefferson City, MO 65109, any local Internal Revenue Service office, or at their website, http://www.irs.gov/formspubs/index.html. The reference material does not include any later]* This rule does not incorporate any subsequent amendments or additions. To claim depreciation in the purchase of equipment with at least an initial cost of *[twenty-five hundred dollars] two thousand five hundred (\$2,500)* or more, the county must request and receive (in writing) the director's or his/her designee's prior approval for federal financial participation in the cost of equipment. *[The director will not grant] [r]* Retroactive approval will not be granted. The county will claim depreciation annually after the first full year of use.

(E) Clerical Staff Time. For any clerical employee who is compensated for both IV-D and non-IV-D related activities, the clerical employee must maintain detailed daily time records supporting personnel costs claimed, including IV-D case name, actual time, and specific activity *;* or in place of this requirement, the employee may claim IV-D time at the same ratio as the documented time of the professional(s) for which the clerical position provides support].

[(F) Interest. Interest earned on county bank accounts containing funds collected for IV-D-child support cases must be remitted monthly to the state, by check, for distribution to state general revenue and federal funds.]

[(G)](F) Reimbursable Activities in Prosecutors' Offices. Activities eligible for reimbursement for county employees who are compensated for both IV-D- and non-IV-D-related activities *[in counties]* are those activities directly related to establishment or enforcement of orders for payment of child support in Title IV-D cases. Review of the case file is reimbursable only when—1) As a result of the review, some establishment or enforcement action is taken and time claimed for those actions is claimed concurrent with the time claimed for review; or 2) It is determined by the prosecuting attorney that no action should be taken and the case is returned to the division. The review shall be claimed in the same month the resulting establishment or enforcement action is taken or in the same month the case is returned to the division.

[(H)](G) Timely Claims for Reimbursement. All reimbursement claims must be submitted for payment no later than ninety (90) calendar days after the close of the calendar month for which IV-D

reimbursement is claimed. Untimely claims submitted shall not be paid unless written waiver is granted by the director or his/her designee. This waiver may not extend the time for filing initial primary (regular) claims for more than thirty (30) calendar days.

[(I)](H) Supplemental claims for overhead and operating costs may be submitted beyond ninety (90) days provided the original primary (regular) claim for the month for which the supplemental is claimed was filed within the required time frame.

AUTHORITY: sections 454.400 and 660.017, RSMo [2000] 2016. This rule [originally] previously filed as 13 CSR 30-3.010 and 13 CSR 40-3.010. Original rule filed Oct. 18, 1988, effective Jan. 13, 1989. Amended: Filed Nov. 2, 1989, effective Feb. 11, 1990. Amended: Filed May 17, 2000, effective Dec. 30, 2000. Moved to 13 CSR 40-3.010 and amended: Filed Nov. 26, 2008, effective June 30, 2009. Moved to 13 CSR 40-108.010 and amended: Filed June 1, 2020.

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

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

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

Title 16—RETIREMENT SYSTEMS

Division 10—The Public School Retirement System of Missouri

Chapter 5—Retirement, Options and Benefits

PROPOSED AMENDMENT

16 CSR 10-5.020 Disability Retirement. The Public School Retirement System is amending this rule.

PURPOSE: The Public School Retirement System (PSRS) is amending this rule regarding disability retirement provisions. The amendments reflect a few policy changes recently approved by the PSRS/PEERS Board of Trustees including setting forth what constitutes "earning a livelihood" under section 169.060, RSMo for PSRS disability retirees. The amendment also includes provisions regarding a new verification of income process to be implemented by PSRS and provides for the use of multiple medical advisors in the application process. The amendment also updates language regarding working after retirement as it applies to disability retirees as a result of amendments to section 169.560, RSMo. Finally, the amendment also removes unnecessary language, clarifies language regarding existing PSRS policies and practices, and reorders some provisions to provide for a more logical flow.

(1) A member claiming disability retirement must file an *[written]* application for retirement with the board of trustees on a form provided by the board. *[If a member, because of physical or mental disability, is unable to make application for disability retirement, the written application may be completed by a guardian or trustee designated by a court and the completed application shall be accompanied by a certified copy of the court order designating the guardian or trustee.]*

(2) The board of trustees shall designate *[a]* **one (1) or more** medical advisers whose *dut[y]ies [it]* shall be to *[assign]* **review and determine eligibility for all disability retirement applicants, including assigning physicians for [disability benefits to physicians for]** examinations and reports*[.]*, when necessary.

[(3)] The board of trustees shall pay the fees of the *[examiners]* **assigned examining physicians** and shall pay the medical advisers a fee for each application.

[(4)] The medical advisers shall report *[to the board]* on the findings of the examining physicians and the board of trustees **or designated staff** shall act on these findings.

(3) The earliest date on which disability retirement may become effective is the first day of the calendar month following the calendar month in which the services of the member are terminated, or the first day of the month following the month in which the claim is approved, whichever is later; except that the earliest date on which disability retirement may become effective for a member retiring after receiving credit for a year of membership service shall be July 1, the first day of the school year following the termination of services. Termination from employment covered by the retirement system prior to the effective date of disability retirement is required to be eligible for a disability retirement benefit.

(4) The first payment after approval shall include any benefits which have accrued between the date of disability and the date of the first payment, provided, however, that benefits shall not accrue for more than sixty (60) days prior to the date of filing the application.

(5) [The recipient of] **Until the member receiving disability benefits reaches age 60, the member may be required to submit [to] yearly Certification of Disability Status forms as completed by the member's physician or the member may be required to obtain periodic examinations [until age sixty (60)] by physicians selected and paid by the board, provided there shall not be more than two (2) examinations in any year. [If the member fails to submit to a periodic examination or provide the board of trustees with a completed Certification of Disability Status form, the member's disability benefit shall be suspended until such certification of the member's continued disability is received by the board of trustees.]**

[(6)] **The payment of the first disability benefits to a member shall be made not later than the calendar month immediately following the month in which the claim is approved. The first payment after approval shall include any benefits which have accrued between the date of disability and the date of the first payment, provided, however, that payment shall not be made for such time as the member is receiving any salary from an employer; and provided, that benefits shall not accrue for more than sixty (60) days prior to the date of filing application.]**

*[(7)]***(6) Any [person] member who is receiving a disability retirement allowance from the retirement system and who has attained age sixty (60) may be employed in any capacity for, and receive income of any amount from, any employer except a school district included in the retirement system. [Notwithstanding any provision of section 169.560, RSMo, to the contrary, a]Any such [person] member may be employed in a district included in the retirement system [on either a temporary-substitute or part-time basis] without a discontinuance of the retirement allowance if such employment does not exceed [either] the limitations [on hours worked or limitation on compensation] set forth in section 169.560, RSMo,**

and 16 CSR 10-5.010(6). Pursuant to section 169.560, RSMo, the limitations apply to disability retirees over age sixty (60) who are employed by a third party or as an independent contractor, if such disability retiree is performing work in a district included in the retirement system as a temporary or long-term substitute teacher or in any other position that would normally require that person to be duly certificated under the laws governing the certification of teachers in Missouri if such person was employed by the district.

*[(8)]***(7) Any [person] member who is receiving a disability retirement allowance from the retirement system and who has not attained age sixty (60) may not be employed in any capacity by a district included in the retirement system and continue to receive the disability retirement allowance. Any such person may not be employed in any capacity for any other employer, the compensation for which employment would constitute a livelihood, and continue to receive the disability retirement allowance. [The executive director, and/or the board of trustees shall determine what constitutes a livelihood in such instance.] The board of trustees will determine that a member who is receiving a disability retirement allowance is earning a livelihood for any given year when the member earns more than twelve (12) times the Substantial Gainful Activity monthly limit for non-blind Social Security Disability Insurance recipients for that year. Income is earned for purposes of this section when it is received as a result of wages, including bonuses, commissions or severance pay, or is net earnings from self-employment. Investment income, pensions, capital gains, legal settlements or judgments, rental income that is not a part of self-employment (e.g., someone who is in the business of renting property), support or alimony payments, and inheritances are some examples of unearned income which would not count toward the earnings limit. The recipient of disability retirement benefits [may] who has not attained age sixty (60) shall be required to submit an annual verification of income and may be required to submit tax returns, W-2 forms, pay[check] stubs, and other forms of documentation as evidence of continued eligibility for disability retirement.**

(8) If the member fails to provide the board of trustees with the completed Certification of Disability Status form or obtain a periodic examination as required by section (5), fails to provide the income verification as required by section (7), or earns a livelihood in excess of the limits set forth in section (7), the member's disability benefit shall be suspended until such certification of the member's continued disability can be made or until the member reaches age sixty (60).

[(9)] **The surviving spouse and/or children of a deceased disability retiree shall have the same rights to benefits under sections 169.070 and 169.075, RSMo, as does the surviving spouse, children, or both, of a member who dies while teaching in a district included in the retirement system.]**

*[(10)]***(9) A recipient of disability benefits may make a written request to the board of trustees to return to full-time or part-time employment on a trial basis. The written request shall include the proposed employer and the proposed start date of employment. The written request shall then either be approved or denied by the board of trustees. If the request is approved, the recipient's disability benefit shall be placed on hold by the board of trustees for the duration of the trial period, which is not to exceed twelve (12) calendar months. If the recipient is unable to complete his or her trial basis employment period, the recipient must provide written documentation to the board of trustees stating that he or she is not able to complete the trial period. The board of trustees may require the recipient to again submit to a periodic examination by physicians selected by the board of trustees, to determine if the recipient remains incapable**

of earning a livelihood in any occupation. If determined to still be incapable of earning a livelihood in any occupation, the recipient shall again be considered a disability retiree and receive a disability retirement benefit without resubmitting an Application for Disability Retirement; any contributions paid to the retirement system by the recipient and his or her employer during the incomplete trial basis employment period will be refunded to the employer, which shall then refund its employee for any employee-paid contributions. The recipient shall receive no additional service credit for the incomplete trial basis employment period. If the recipient does successfully complete his or her trial basis employment, his or her disability retirement will be terminated and his or her membership status as of the date of the member's disability retirement shall be restored; any contributions paid by the recipient and his or her employer to the retirement system [by the recipient and his or her employer] during the trial basis employment period will be retained by the retirement system[,] and applied to the member account as payment toward any disability benefits paid during the member's retirement. [t]The recipient will be granted service credit for the trial basis employment period. In no event shall the recipient receive a benefit payment in the same calendar month in which the recipient either works for his or her trial basis employer or receives service credit.

(10) Upon the death of a disability retiree, his or her beneficiary is entitled to the same benefits as the beneficiary of a member who dies while employed in a district included in the retirement system as outlined under sections 169.070 and 169.075, RSMo.

AUTHORITY: section 169.020, RSMo [Supp. 2012] 2016. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed May 20, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School Retirement System of Missouri, attn: General Counsel, at PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 10—The Public School Retirement System of Missouri

Chapter 6—The Public Education Employee Retirement System of Missouri

PROPOSED AMENDMENT

16 CSR 10-6.070 Disability Retirement. The Public School Retirement System is amending this rule.

PURPOSE: The Public School Retirement System (PSRS) is amending this rule regarding disability retirement provisions for the Public Education Employee Retirement Systems of Missouri (PEERS). The amendments reflect a few policy changes recently approved by the PSRS/PEERS Board of Trustees including setting forth what constitutes "earning a livelihood" under section 169.663, RSMo. for PEERS disability retirees and removing the automatic approval of PEERS disability retirement when the member is approved for federal

Social Security Disability benefits. The amendment also includes provisions regarding a new verification of income process to be implemented by PEERS and provides for the use of multiple medical advisors in the application process. The amendment also removes unnecessary language, clarifies language regarding existing PEERS' policies and practices, and reorders some provisions to provide for a more logical flow.

(1) A member claiming disability retirement must file an [written] application for retirement with the board of trustees on a form provided by the board. [If a member, because of physical or mental disability, is unable to make application for disability retirement, the written application may be completed by a guardian or trustee designated by a court, and the completed application shall be accompanied by a certified copy of the court order designating the guardian or trustee. If a member indicates in his/her application for disability retirement that s/he has applied for disability benefits provided by the Social Security Act, the Award Letter, or certified copy thereof, issued by the Social Security Administration, will serve as evidence that disability exists.]

(2) [If a member is not eligible for disability benefits, as provided by the Social Security Act, because of insufficient coverage, t] The board of trustees shall designate [a] one (1) or more medical advisers whose dut/y/ies shall be to review and determine eligibility for all disability retirement [assign] applicants, [for disability benefits to] including assigning physicians for examinations and reports, when necessary. The board of trustees shall pay the fees of the assigned examining physicians and shall pay the medical advisers a fee for each application. The medical advisers shall report [to the board] on the findings of the examining physicians and the board of trustees or designated staff shall act on these findings. [The recipient of disability benefits may be required to submit to periodic examinations until age sixty (60) by physicians selected and paid by the board, provided there shall not be more than two (2) examinations in any year.]

[3] The board of trustees shall pay the fees of the examiners and shall pay the medical adviser a fee for each application for which an evaluation is made.

(4) If disability shall cease to exist before the recipient of the disability benefits reaches age sixty (60), as evidenced by the cessation of benefits by the Social Security Administration or by examination by physicians selected and paid by the board of trustees, his/her disability benefits shall cease and his/her membership status as of the date of his/her disability retirement shall be restored. If the member is required to submit to a periodic examination and the member fails to submit to the examination or provide the board of trustees with a completed Certification of Disability Status form, the member's disability benefit shall be suspended until such certification of the member's continued disability is received by the board of trustees.

(5) The payment of the first disability benefits to a member shall be made not later than the calendar month immediately following the month in which the claim is approved. The first payment after approval shall include any benefits which have accrued between the date of disability and the date of the first payment, provided, however, that payment shall not be made for such time as the member is receiving any salary from an employer, and provided that benefits shall not accrue for more than sixty (60) days prior to the date of filing application.]

(3) The earliest date on which disability retirement may become

effective is the first day of the calendar month following the calendar month in which the services of the member are terminated, or the first day of the month following the month in which the claim is approved, whichever is later; except that the earliest date on which disability retirement may become effective for a member retiring after receiving credit for a year of membership service shall be July 1, the first day of the school year following the termination of services. Termination from employment covered by the retirement system prior to the effective date of disability retirement is required to be eligible for a disability retirement benefit.

(4) The first payment after approval shall include any benefits which have accrued between the date of disability and the date of the first payment, provided, however, that benefits shall not accrue for more than sixty (60) days prior to the date of filing the application.

(5) Until the member receiving disability benefits reaches age sixty (60), the member may be required to submit yearly Certification of Disability Status forms as completed by the member's physician or the member may be required to obtain periodic examinations by physicians selected and paid by the board, provided there shall not be more than two (2) examinations in any year.

(6) Any [person] member who is receiving a disability retirement allowance from the retirement system and who has attained age sixty (60) may be employed in any capacity for, and receive income of any amount from, any employer except a school district included in the retirement system. *[Notwithstanding any provision of section 169.660, RSMo, to the contrary, a]* Any such [person] member may be employed in a district included in the retirement system *[on a parttime or temporary-substitute basis up to a total of five hundred fifty (550) hours in a school year]* without a discontinuance of the retirement allowance **if such employment does not exceed the limitation on hours worked** as set forth in section 169.660, RSMo, and 16 CSR 10-6.060(4).

(7) Any [person] member who is receiving a disability retirement allowance from the retirement system and who has not attained age sixty (60) may not be employed in any capacity by a district included in the retirement system and continue to receive the retirement allowance. Any such person may not be employed in any capacity for any other employer, the compensation for which employment would constitute a livelihood, and continue to receive the retirement allowance. *[The executive director, and/or the board of trustees, shall determine what constitutes a livelihood in such instance.]* The board of trustees will determine that a member who is receiving a disability retirement allowance is earning a livelihood for any given year when the member earns more than twelve times the Substantial Gainful Activity monthly limit for non-blind Social Security Disability Insurance recipients for that year. Income is earned for purposes of this section when it is received as a result of wages, including bonuses, commissions or severance pay, or is net earnings from self-employment. Investment income, pensions, capital gains, legal settlements or judgments, rental income that is not a part of self-employment (e.g., someone who is in the business of renting property), support or alimony payments, and inheritances are some examples of unearned income which would not count toward the earnings limit. The recipient of a disability [benefits] retirement allowance who has not attained age sixty (60) shall be required to submit an annual verification of income and may be required to submit tax returns, W-2 forms, pay[check] stubs, and other forms of documentation as evidence of continued eligibility for disability retirement.

(8) If the member fails to provide the board of trustees with the

completed Certification of Disability Status form or obtain a periodic examination as required by section (5), fails to provide the income verification as required by section (7), or earns a livelihood in excess of the limits set forth in section (7), the member's disability benefit shall be suspended until such certification of the member's continued disability can be made by the board of trustees or until the member reaches age sixty (60).

[(8)](9) A recipient of disability benefits may make a written request to the board of trustees to return to full-time or part-time employment on a trial basis. The written request shall include the proposed employer and the proposed start date of employment. The written request shall then either be approved or denied by the board of trustees. If the request is approved, the recipient's disability benefit shall be placed on hold by the board of trustees for the duration of the trial period, which is not to exceed twelve (12) calendar months. If the recipient is unable to complete his or her trial basis employment period, the recipient must provide written documentation to the board of trustees stating that he or she is not able to complete the trial period. The board of trustees may require the recipient to again submit to a periodic examination by physicians selected by the board of trustees to determine if the recipient remains incapable of earning a livelihood in any occupation. If determined to still be incapable of earning a livelihood in any occupation, the recipient shall again be considered a disability retiree and receive a disability retirement benefit without resubmitting an Application for Disability Retirement; any contributions paid to the retirement system by the recipient and his or her employer during the incomplete trial basis employment period will be refunded to the employer, which shall then refund its employee for any employee-paid contributions. The recipient shall receive no additional service credit for the incomplete trial basis employment period. If the recipient does successfully complete his or her trial basis employment, his or her disability retirement will be terminated and his or her membership status as of the date of the member's disability retirement shall be restored; any contributions paid by the recipient and his or her employer to the retirement system *[by the recipient and his or her employer]* during the trial basis employment period will be retained by the retirement system $[,]$ and **applied to the member account as payment toward any disability benefits paid during the member's retirement.** *[t]*The recipient will be granted service credit for the trial basis employment period. In no event shall the recipient receive a benefit payment in the same calendar month in which the recipient either works for his or her trial basis employer or receives service credit.

[(9)](10) *[The surviving spouse or children of a deceased]* **Upon the death of a disability retiree, [or both, shall have the same rights to benefits under section 169.670, RSMo, as does the surviving spouse or children, or both,] his or her beneficiary is entitled to the same benefits as the beneficiary of a member who dies while employed in a district included in the retirement system as outlined under section 169.670, RSMo.**

AUTHORITY: section 169.610, RSMo [Supp. 2012] 2016. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed May 20, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School Retirement System of Missouri, attn: General Counsel,

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

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 10—Office of the Director

Chapter 15—Abortions

PROPOSED AMENDMENT

19 CSR 10-15.060 Prohibition on Expenditure of Funds. The department is updating the rule purpose, replacing section (1), and removing sections (2), (3), and (4).

PURPOSE: The department is updating specific language in the rule purpose and rule body to align with HB2010, which is the Fiscal Year 2021 budget bill.

PURPOSE: [This rule defines terms used in House Bill 10, 100th General Assembly, First Regular Session, for purposes of expenditures by the Department of Health and Senior Services.] This rule outlines how the Department of Health and Senior Services ensures that expenditures are compliant with annual General Assembly budget bills.

[(1) Definitions.

(A) Affiliate of any clinic, physician's office, or any other place or facility in which abortions are performed or induced (as used in section 10.1100 of HB 10 and this regulation)—factors to be considered in making this determination include, but are not limited to: an organization or location that shares, or has in common, any resource with any clinic, physician's office, or any other place or facility in which abortions are performed or induced including, but not limited to, operating funds, bank accounts, facilities, employees, service contracts, equipment, mailing lists, trademarks, copyrights, service marks, brands, trade names, financial reporting, marketing, advertising, websites, information and education materials, or any other assets.

(B) Associate of any clinic, physician's office, or any other place or facility in which abortions are performed or induced (as used in section 10.1100 of HB 10 and this regulation)—factors to be considered in making this determination include, but are not limited to: an organization or location that shares an organizational structure with any clinic, physician's office, or any other place or facility in which abortions are performed or induced including, but not limited to, parent, subsidiary, or sister organizations; or an organization or location with common or interlocking management, ownership, or governance with any clinic, physician's office, or any other place or facility in which abortions are performed or induced; or an organization or location with the public appearance of association with any clinic, physician's office, or any other place or facility in which abortions are performed or induced, such as a shared name, or part of a name; an alliance or federation with an organization or location that is commonly identified as an advocate for abortion; or that holds itself out, has held itself out, or refers to itself publicly in a way that demonstrates a connection to an organization or location that is commonly identified as any clinic, physician's office, or any other place or facility in which abortions are performed or induced.

(C) Counsels women to have an abortion (as used in section 10.1005 of HB 10)—in the absence of an exception required by federal law, includes, but is not limited to, encouraging a patient to have an abortion, referring a patient

for an abortion, or providing a patient with information encouraging her to have an abortion.

(D) Program (as used in section 10.1005 of HB 10)—a project, service, or activity administered by the department.

(E) Referring a patient for an abortion (as used in section 170.015, RSMo, for purposes of section 10.725 of HB 10)—does not include providing comprehensive, factual information regarding options, so long as the information is provided for all of the options and in a neutral manner. Also does not include providing contact information, so long as the contact information is provided for all of the options and in a neutral manner. Other actions, such as assisting with making an appointment or assisting with transportation, constitute referring a patient for an abortion.

(2) The department shall not expend any funds to any clinic, physician's office, or any other place or facility in which abortions are performed or induced other than a hospital, including an abortion facility as defined in section 188.015, RSMo, or any affiliate or associate of any such clinic, physician's office, or place or facility in which abortions are performed or induced other than a hospital, as determined by the department in accordance with this regulation.

(3) The department shall not expend any funds on any program that, in the absence of an exception required by federal law, performs abortions or counsels women to have an abortion.

(4) After July 1, 2019, no claims for payment shall be submitted by a provider until the provider submits the form provided by the department declaring that the provider will not submit claims for payment that violate HB 10. A copy of the form can be requested by contacting the department.]

(1) After July 1 of each calendar year, no claims for payment shall be submitted by any provider until that provider submits the requisite form issued by the department to be used for the upcoming fiscal year. Such form shall contain the applicable provisions related to legislative authority regarding expenditure of funds, including but not limited to, definitions, restrictions, and prohibitions. Such form shall also contain a declaration to be executed by the provider, which shall state that said provider will not submit claims for payment that violate the applicable provisions related to the legislative authority regarding expenditure of funds. This form shall be effective from the date that the department receives a provider's executed copy until a new form is issued by the department. A copy of this form can be requested by contacting the department.

AUTHORITY: section 192.006, [RSMo 2016, and House Bill 10, 100th General Assembly, First Regular Session] **House Bill 2010, Second Regular Session, One hundredth General Assembly, 2020.** Emergency rule filed July 5, 2018, effective July 15, 2018, expired Feb. 28, 2019. Original rule filed July 5, 2018, effective Feb. 28, 2019. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed May 22, 2020, effective June 8, 2020, expires Feb. 25, 2021. Amended: Filed May 22, 2020.

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

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

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

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

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 95—Medical Marijuana**

PROPOSED AMENDMENT

19 CSR 30-95.110 Physicians. The Department of Health and Senior Services is adding a new section (3).

PURPOSE: This amendment adds a procedure for investigating complaints against physicians, consequences for substantiated complaints, and a process for physicians to dispute complaints or appeal the department's decisions regarding those complaints.

(3) **Physician Investigations.** All complaints against physicians must be submitted via forms available on the department's website. Complaints shall include the name and address of the physician against whom the complaint is made and a clear description of what violation(s) the complainant believes the physician has committed.

(A) Within sixty (60) days of receiving a complaint against a physician, the director of the department's medical marijuana program will determine whether an investigation is warranted. Investigations may also be initiated by the department.

(B) If the department conducts an investigation pursuant to a complaint, the complainant will be notified of that decision, and the physician will receive a copy of the complaint. In the event the investigation is initiated by the department, the physician will receive a written description of the violation the department believes the physician has committed.

(C) All investigations shall be completed within one (1) year of opening the investigation. Upon completion of an investigation, the department shall notify the physician of any department action and the reasons for that action. The director of the department's medical marijuana program may conclude an investigation by taking any of the following actions:

1. Dismissing the complaint;
2. Referring the complaint to the Missouri State Board of Registration for the Healing Arts;
3. Referring the complaint to law enforcement; and
4. Refusing to accept any new certifications from the physician for a reasonable period of time as determined by the director and adding the physician's name to a publicly available list of physicians from whom the department is not accepting certifications. Such action shall only be taken upon concluding the physician has violated a provision of 19 CSR 30-95, Article XIV of the Missouri Constitution, or any other rule or law applicable to implementation of Article XIV. The length of time the department shall refuse to accept the physician's certifications shall be based upon the following criteria:

A. Whether the physician acted recklessly or knowingly in violating an applicable rule or law;

B. The degree of imminent danger to the health of a qualifying patient the physician's actions caused;

C. The degree or recurrence of falsification of a physician certification;

D. Whether the department has previously received substantiated complaints against the physician; and

E. Any aggravating circumstances.

(D) Any physician aggrieved by the department's actions taken

pursuant to this section may file an application for a hearing with the department. The department shall grant the application within fourteen (14) days after receipt by the department and set the matter for hearing.

(E) The provisions of Chapter 536, RSMo for a contested case, except those provisions or amendments that are in conflict with this section, shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person requesting a hearing shall be entitled to present evidence, pursuant to the provisions of Chapter 536, RSMo relevant to the allegations.

(F) Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the decision of the director of the department's medical marijuana program shall stand. The director of the department or the director's designee shall clearly state the reasons for his or her decision.

(G) A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under Chapter 536, RSMo. If the person fails to appeal the director of the department's findings within thirty (30) days of their issuance, those findings shall constitute a final determination.

(H) A decision by the director of the department shall be inadmissible in any civil or criminal action brought against a physician.

AUTHORITY: sections 1.3.(1)(b) and 1.3.(2) of Article XIV, Mo. Const. Emergency rule filed May 24, 2019, effective June 3, 2019, expired Feb. 27, 2020. Original rule filed May 24, 2019, effective Jan. 30, 2020. Amended: Filed May 20, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Lyndall Fraker, PO Box 570, Jefferson City, MO 65102 or via email at MMPublicComment@health.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 4240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

20 CSR 4240-3.155 Requirements for Electric Utility Cogeneration Tariff Filings. This rule defined the requirement of electric utilities pertaining to the filing of tariffs regarding purchasing electricity generated by small power produces and cogenerators.

PURPOSE: This rule is being rescinded in its entirety and relevant language is being streamlined into Chapter 20.

AUTHORITY: section 386.250 and 393.140, RSMo 2000. This rule originally filed as 4 CSR 240-3.155. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed July 25, 2003, effective March 30, 2004. Moved to 20 CSR 4240-3.155, effective Aug. 28, 2019. Rescinded: Filed May 29, 2020.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received no later than July 31, 2020, and should include a reference to Commission Case No. EX-2020-0006. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for 10:00 a.m., August 11, 2020, in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 4240—Public Service Commission
Chapter 20—Electric Utilities

PROPOSED AMENDMENT**

20 CSR 4240-20.060 Cogeneration and Small Power Production. The commission is amending section (1), section (2), section (5), section (6), section (7), section (8), section (9), and section (10) and adding new section (4), section (11), and section (12).

PURPOSE: This amendment expands the use of standard contracts and rates for purchase from qualifying facilities and removes unnecessary language.

(1) Definitions. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) shall have the same meaning for purposes of this rule as they have under PURPA, unless further defined in this rule.

(B) Back-up power means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

(C) Interconnection costs means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent those costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

(D) Interruptible power means electric energy or capacity supplied by an electric utility subject to interruption by the

electric utility under specified conditions.

(E) Maintenance power means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.

(F) Purchase means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.

(G) Qualifying facility means a cogeneration facility or a small power production facility which is a qualifying facility under Subpart B of Part 292 of the Federal Energy Regulatory Commission's (FERC) regulations.

(H) Rate means any price, rate, charge or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity or any rule or practice respecting any such rate, charge or classification and any contract pertaining to the sale or purchase of electric energy or capacity.

(I) Sale means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.

(J) Supplementary power means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.

(K) System emergency means a condition on a utility's system which is likely to result in imminent significant disruption of service to consumers or is imminently likely to endanger life or property.]

(B) Fuel costs, or energy costs, means the variable costs associated with the production of electric energy and represent the cost of fuel and operating and maintenance expenses.

(C) Capacity costs means the costs associated with providing the capability to deliver energy.

(2) Arrangements Between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities Under Section 210 of [the Public Utility Regulatory Policies Act of 1978] PURPA.

(C) Every regulated utility which provides retail electric service in this state shall enter into a contract for parallel generation service with any customer which is a qualifying facility, upon that customer's request, where that customer may connect a device to the utility's delivery and metering service to transmit electrical power produced by that customer's energy generating system into the utility's system.

1. The utility shall supply, install, own and maintain all necessary meters and associated equipment used for billing. The costs of any such meters and associated equipment which are beyond those required for service to a customer which is not a qualifying facility shall be borne by the customer. The utility may install and maintain, at its expense, load research metering for monitoring the customer's energy generation and usage.

2. The customer shall supply, install, operate and maintain, in good repair and without cost to the utility, the relays, locks and seals, breakers, automatic synchronizer, a disconnecting device and other control and protective devices required by the utility to operate the customer's generating system parallel to the utility's system. The customer also shall supply, without cost to the utility, a suitable location for meters and associated equipment used for billing, load research and disconnection.

3. The customer shall be required to reimburse the utility for the cost of any equipment or facilities required as a result of connecting the customer's generating system with the utility's system.

4. The customer shall notify the utility prior to the initial testing of the customer's generating system and the utility shall have the right to have a representative present during

the testing.

5. Meters and associated equipment used for billing, load research and connection and disconnection shall be accessible at all times to utility personnel.

6. A manual disconnect switch for the qualifying facility must be provided by the customer which will be under the exclusive control of the utility dispatcher. This manual switch must have the capability to be locked out of service by the utility-authorized switchmen as a part of the utility's workman's protection assurance procedures. The customer must also provide an isolating device which the customer has access to and which will serve as a means of isolation for the customer's equipment during any qualifying facility maintenance activities, routine outages or emergencies. The utility shall give notice to the customer before a manual switch is locked or an isolating device used, if possible; and otherwise shall give notice as soon as practicable after locking or use.

(D) No customer's generating system or connecting device shall damage the utility's system or equipment or present an undue hazard to utility personnel.

(E) If harmonics, voltage fluctuations or other disruptive problems on the utility's system are directly attributable to the operation of the customer, these problems will be corrected at the customer's expense.]

[(F)](D) Every contract shall provide fair compensation for the electrical power supplied to the utility by the customer. For qualifying facilities whose systems fall out of the standard contract ranges described in Section (4), [I]f the utility and the customer cannot agree to the terms and conditions of the contract, the [Public Service Commission (PSC)] commission shall establish the terms and conditions upon the request of the utility or the customer. Those terms and conditions will be established in accordance with Section 210 of [the Public Utility Regulatory Policies Act of 1978] PURPA and the provisions of this rule. Any Federal Energy Regulatory Commission (FERC) granted exemption granted from qualifying facility purchases also applies to qualifying facility purchases within the state of Missouri.

(3) Electric Utility Obligations Under This Rule.

(A) Obligation to Purchase From Qualifying Facilities. Each electric utility shall purchase, in accordance with section [(4)](5), any energy and capacity which is made available from a qualifying facility—

1. Directly to the electric utility; or
2. Indirectly to the electric utility in accordance with subsection (3)(D) of this rule.

(B) Obligation to Sell to Qualifying Facilities. Each electric utility shall sell to any qualifying facility, in accordance with section [(5)](6) of this rule, any energy and capacity requested by the qualifying facility.

(C) Obligation to Interconnect.

1. Subject to paragraph (3)(C)2. of this rule, any electric utility shall make interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under this rule. The obligation to pay for any interconnection costs shall be determined in accordance with section [(6)](7) of this rule.

2. No electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act.

(D) Transmission to Other Electric Utilities. If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase energy or capacity from a qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which energy or capacity is transmitted shall purchase energy or capacity under this subsection (3)(D) as if the qualifying facility were supplying energy or capacity directly to the electric utility. The rate

for purchase by the electric utility to which such energy is transmitted shall be adjusted up or down to reflect line losses pursuant to paragraph [(4)(E)4.] (5)(D)4. of this rule and shall not include any charges for transmission.

(E) Parallel Operation. Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with section [(8)](9) of this rule.

(4) Standard Rates for Purchase and Standard Contracts.

(A) Each electric utility shall put into effect commission-approved standard rates for purchases from qualifying facilities with a design capacity:

1. Of one hundred (100) kilowatts or less; or
2. Over one hundred (100) kilowatts to one thousand (1,000) kilowatts.

(B) There may be put into effect commission-approved standard rates for purchases from qualifying facilities with a design capacity of more than one thousand (1,000) kilowatts.

(C) The commission shall approve standard contract templates for purchases from qualifying facilities with the design capacities described in (4)(A). The approved standard contract templates will be the basis of the standard contracts utilized by each utility through its respective tariffs and shall include provisions for Renewable Energy Certificate (REC) ownership. The terms and conditions of the standard contract templates will be established in accordance with Section 210 of PURPA and the provisions of this rule. Standard contract templates will be made available through the commission website.

1. For systems which qualify for net-metering under 20 CSR 4240-20.065 and section 386.890 RSMo, the standard contract shall be substantially the same as the interconnection application located on the commission's website and incorporated by reference.

2. RECs associated with qualifying facilities shall be owned by the customer; however, as a condition of receiving solar rebates for systems operational on or after January 1, 2019, customers transfer to the electric utility all rights, title, and interest in and to the RECs associated with the new or expanded solar electric system that qualified the customer for the solar rebate for a period of ten (10) years from the date the electric utility confirmed the solar electric system was installed and operational.

3. If the electric utility purchases S-RECs under a Standard Offer Contract in 20 CSR 4240-20.100(4)(H), the electric utility shall also offer purchase from qualifying facilities under the same rates and terms. S-RECs from qualifying facilities may be used for compliance with the Renewable Energy Standard (RES) requirements of section 393.1030, RSMo subject to the same conditions as all RECs and S-RECs.

(D) Each electric utility will develop technical and performance standards and interconnection test specifications specific to its distribution system to be included in its standard contract template. Technical and performance standards will include provisions related to metering, protection equipment, and disconnect switches.

(E) The standard rates for purchases under this subsection shall be consistent with subsections (5)(A) and (E) of this rule, and may differentiate among qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies.

[(4)](5) Rates for Purchases.

(A) Rates for purchases shall be just and reasonable to the electric consumer of the electric utility and in the public interest and shall not discriminate against qualifying cogeneration and small power production facilities. Nothing in this rule requires any electric utility to pay more than the avoided costs for purchases.

(B) Relationship to Avoided Costs.

1. For purposes of this section, new capacity means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978.

2. Subject to paragraph [(4)](5)(B)3. of this rule, a rate for purchases satisfies the requirements of subsection [(4)](5)(A) of this rule if the rate equals the avoided costs determined after consideration of the factors set forth in subsection [(4)](E) (5)(D) of this rule.

3. A rate for purchases (other than from new capacity) may be less than the avoided cost if the [PSC] commission determines that a lower rate is consistent with subsection [(4)](5)(A) of this rule and is sufficient to encourage cogeneration and small power production.

4. Rates for purchases from new capacity shall be in accordance with paragraph [(4)](5)(B)2. of this rule, regardless of whether the electric utility making the purchases is simultaneously making sales to the qualifying facility.

5. In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for the purchases do not violate this paragraph if the rates for the purchases differ from avoided costs at the time of delivery.

[(C)] Standard Rates for Purchases.

1. There shall be put into effect (with respect to each electric utility) standard rates for purchases from qualifying facilities with a design capacity of one hundred (100) kilowatts or less.

2. There may be put into effect standard rates for purchases from qualifying facilities with a design capacity of more than one hundred (100) kilowatts.

3. The standard rates for purchases under this subsection shall be consistent with subsections (4)(A) and (E) of this rule, and may differentiate among qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies.]

[(D)](C) Purchases as Available or Pursuant to a Legally Enforceable Obligation. Each qualifying facility shall have the option either—

1. To provide energy as the qualifying facility determines this energy to be available for the purchases, in which case the rates for the purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

2. To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for the purchases, at the option of the qualifying facility exercised prior to the beginning of the specified term, shall be based on either the avoided costs calculated at the time of delivery or the avoided costs calculated at the time the obligation is incurred.

[(E)](D) Factors Affecting Rates for Purchases.

In determining avoided costs, the following factors, to the extent practicable, shall be taken into account:

1. The data provided pursuant to [4 CSR 240-3.155] section (10) of this rule, including [PSC] commission review of any such data;

2. The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:

A. The ability of the utility to dispatch the qualifying facility;

B. The expected or demonstrated reliability of the qualifying facility;

C. The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;

D. The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

E. The usefulness of energy and the capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;

F. The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and

G. The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities;

3. The relationship of the availability of energy or capacity from the qualifying facility as derived in paragraph [(4)](E)2.] (5)(D)2. of this rule, to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of [oil] fossil fuel use; [and]

4. The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity[.]; and

5. **The stochastic effect achieved by the aggregate output of dispersed small systems, that is, statistically a dispersed array of facilities may produce a level of reliability not available by any one (1) of the units taken separately. When that aggregate capacity value which allows the utility to avoid a capacity cost occurs and can be reasonably estimated, a corresponding credit must be included in the standard rates. The tariffs should take into account patterns of availability of particular energy sources such as the benefits to a summer peaking utility from photovoltaic systems or to a winter peaking utility for wind facilities. For the purposes of this rule, rate means any price, rate, charge or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity or any rule or practice respecting any such rate, charge, or classification and any contract pertaining to the sale or purchase of electric energy or capacity.**

[(F)](E) Periods During Which Purchases not Required.

1. Any electric utility which gives notice pursuant to paragraph [(4)](F)2.] (5)(E)2. of this rule will not be required to purchase electric energy or capacity during any period which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make the purchases, but instead generated an equivalent amount of energy itself.

2. Any electric utility seeking to invoke paragraph [(4)](F)1.] (5)(E)1. of this rule must notify, in accordance with applicable state law or rule, each affected qualifying facility in time for the qualifying facility to cease the delivery of energy or capacity to the electric utility.

3. Any electric utility which fails to comply with the provisions of paragraph [(4)](F)2.] (5)(E)2. of this rule will be required to pay the same rate for the purchase of energy or capacity as would be required had the period described in paragraph [(4)](F)1.] (5)(E)1. of this rule not occurred.

4. A claim by an electric utility that this period has occurred or will occur is subject to verification by the [PSC] commission as the [PSC] commission determines necessary or appropriate, either before or after the occurrence.

[(5)](6) Rates for Sales.

(A) Rates for sales shall be just and reasonable and in the public interest and shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility. Rates for sales which are based on accurate data and consistent system-wide costing principles shall not be considered to discriminate against any qualifying facility to the extent that those rates apply to the utility's other customers with similar load or other cost-related characteristics.

(B) Additional Services to be Provided to Qualifying Facilities.

1. Upon request of a qualifying facility, each electric utility shall provide supplementary power, back-up power, maintenance power and interruptible power.

2. The [PSC] commission may waive any requirement of paragraph [(5)](6)(B)1. of this rule if, after notice in the area served by

the electric utility and after opportunity for public comment, the electric utility demonstrates and the *[PSC]* commission finds that compliance with that requirement will impair the electric utility's ability to render adequate service to its customers or place an undue burden on the electric utility.

(C) Rates for Sale of Back-Up and Maintenance Power. The rate for sales of back-up power or maintenance power—

1. Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's system will occur simultaneously or during the system peak or both; and

2. Shall take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with scheduled outages of the utility's facilities.

[(6)](7) Interconnection Costs.

(A) The customer shall be required to reimburse the utility for the interconnection costs of any equipment or facilities which result from connecting the customer's generating system with the utility's system according to the provisions contained in the utility's tariffs for connections at distribution or the governing Regional Transmission Organization (RTO) provisions if connecting to transmission.

[(A)](B) If the utility and the qualifying facility cannot reach agreement as to the amount or the manner of payment of the interconnection costs to be paid by the qualifying facility, the *[PSC]* commission, after hearing under the procedure of 20 CSR 4240-2.070, shall assess against the qualifying facility those interconnection costs to be paid to the utility, on a nondiscriminatory basis with respect to other customers with similar load characteristics or shall determine the manner of payments of the interconnection costs, which may include reimbursement over a reasonable period of time, or both. In determining the terms of any reimbursement over a period of time, the commission shall provide for adequate carrying charges associated with the utility's investment and security to insure total reimbursement of the utility's incurred costs, if it deems necessary.

[(7)](8) System Emergencies.

(A) Qualifying Facility Obligation to Provide Power During System Emergencies. A qualifying facility shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent provided by agreement between the qualifying facility and electric utility or ordered under section 202(c) of the Federal Power Act.

(B) Discontinuance of Purchases and Sales During System Emergencies. During any system emergency, an electric utility may discontinue purchases from a qualifying facility if those purchases would contribute to the emergency *[and]*. During any system emergency, an electric utility may discontinue sales to a qualifying facility, provided that discontinuance is on a nondiscriminatory basis.

[(8)](9) Standards for Operating Reliability. The *[PSC]* commission may establish reasonable standards to ensure system safety and reliability of interconnected operations. Those standards may be recommended by any electric utility, any qualifying facility or any other person. If the *[PSC]* commission establishes standards, it shall specify the need for the standards on the basis of system safety and reliability.

[(9)](10) Exemption to Qualifying Facilities From the Public Utility Holding Company Act and Certain State Law and Rules.

(A) Applicability. *[This section applies to qualifying cogeneration facilities and qualifying small power production facilities which have a power production capacity which does not exceed thirty (30) megawatts and to any qualifying small power production facility with a power production capacity over thirty (30) megawatts if that facility produces electric energy solely by the use of biomass as a primary energy*

source.] As defined in PURPA section 292.601 (a) & (b) and section 292.602 (a) & (b).

(B) A qualifying facility described *[in subsection (1)(A)]* in PURPA shall not be considered to be an electric utility company as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(3).

(C) Any qualifying facility shall be exempted (except as otherwise provided) from Missouri *[PSC]* commission law or rule respecting the rates of electric utilities and the financial and organizational regulation of electric utilities. A qualifying facility may not be exempted from Missouri *[PSC]* commission law and rule implementing subpart C of PURPA.

(11) Filing Requirements.

(A) On or before January 15 of every odd-numbered year, unless otherwise ordered by the commission, all regulated electric utilities shall file, in accordance with 20 CSR 4240-2.065(4), tariffs which contain the standard contracts as described in section (4) of this rule and the standardized rates for sales and purchase described in section (5) and section (6) of this rule. The biennial filings will consider the factors affecting rates for purchases as described in subsection (5)(D) and be accompanied by the data described in subsection (11)(B) and the verification described in subsection (11)(C) of this rule.

(B) Each regulated electric utility shall maintain for public inspection the following data:

1. The estimated avoided cost on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities. These levels of purchases shall be stated in blocks of not more than one hundred (100) megawatts for systems with peak demand of one thousand (1,000) megawatts or more, and in blocks equivalent to not more than ten percent (10%) of the system peak demand for systems of less than one thousand (1,000) megawatts. The avoided costs shall be stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next five (5) years;

2. The electric utility's plans for the addition of capacity by amount and type, for purchases of firm energy and capacity and for capacity retirements for each year during the succeeding ten (10) years; and

3. The estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt and the associated energy costs of each unit, expressed in cents per kilowatt-hour. These costs shall be expressed in terms of individual generating units and of individual planned firm purchases.

(C) Each regulated electric utility shall verify it maintains and aggregates the following information:

1. For systems less than one hundred kilowatts (100 kW)—

A. Characterization of the distribution circuits where the systems are connected;

B. Aggregate capacity of the systems for each feeder or load; and

C. Relevant interconnection standard requirement that specify the performance of the system; and

2. For systems over one hundred kilowatts (100 kW) and under one thousand kilowatts (1000 kW)—

A. Type of generating resource;

B. Distribution bus nominal voltage where the system is connected;

C. Feeder characteristics for connecting the system to distribution bus, if applicable;

D. Capacity of each resource;

E. Relevant interconnection standard requirements; and

F. Actual plant control modes in operation.

(D) In establishing the avoided cost on the electric utility's system in accordance with paragraph (10)(C)1., the following

methodologies may be utilized:

1. **Proxy Unit.** This methodology assumes that the electric utility avoids building a proxy generating unit by utilizing the qualifying facilities power. The fixed costs of the hypothetical proxy unit set the avoided capacity cost and variable costs set the energy payment;

2. **Integrated Resource Plan (IRP) Based avoided cost.** This methodology relies on the electric system resource planning to predict future needs and costs that may be avoided by qualifying facilities;

3. **Market Based Pricing.** Qualifying facilities with access to competitive markets receive energy and capacity payments at market rates; and

4. The electric utility may propose any other method that can be demonstrated to reflect avoided costs.

(12) Implementation of Certain Reporting Requirements. Any electric utility which fails to comply with the requirements of subsection (11)(B) shall be subject to the same penalties to which it may be subjected for failure to comply with the requirements of the Federal Energy Regulatory Commission's (FERC's) regulations issued under Section 133 of PURPA.

AUTHORITY: sections 386.250 and 393.140, RSMo [2000] 2016. This rule originally filed as 4 CSR 240-20.060. Original rule filed Oct. 14, 1980, effective May 15, 1981. Amended: Filed Aug. 16, 2002, effective April 30, 2003. Moved to 20 CSR 4240-20.060, effective Aug. 28, 2019. Amended: Filed May 29, 2020.

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

PRIVATE COST: This proposed amendment is expected to incur the aggregate cost of a one- (1-) time cost of seventeen thousand five hundred dollars (\$17,500) and an annual cost of seven thousand dollars (\$7,000).

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with the Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received no later than July 31, 2020, and should include a reference to Commission Case No. EX-2020-0006. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for 10:00 a.m., August 11, 2020, in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Department of Commerce and Insurance
Division Title: Public Service Commission
Chapter Title: Electric Utilities**

Rule Number and Title:	20 CSR 4240-3.155 Requirements for Electric Utility Cogeneration Tariff Filings 20 CSR 4240-20.060 Cogeneration and Small Power Production 20 CSR 4240-20.065 Net Metering
Type of Rulemaking:	Rescissions/ Amendments

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4	Investor-owned electric utilities	One-time cost of \$17,500 Annual cost of \$7,000

III. WORKSHEET

One investor-owned electric utility (IOU) indicated the proposed amendments would cause the utility to incur significant expenses related to necessary technology upgrades and increased litigation expense. Additional information was requested from all electric IOUs.

Using additional information PSC Staff quantified what it expects is the aggregate cost of compliance with proposed amendments.

IV. ASSUMPTIONS

Only the amendment to 20 CSR 4240-20.060 is expected to incur the aggregate cost of a one-time cost of \$17,500 and an annual cost of \$7,000. No cost is anticipated for the amendments to 20 CSR 4240-20.065 or the rescission of 20 CSR 4240-3.155.

Year 1 Costs

Proposed Code Section	Description	Staff's Est Ameren Costs	Staff's Est Empire Costs	Ameren's Est Costs	Staff's Est KCPL/GMO Costs	Total Staff's Estimated Costs	Notes
\$650	Ameren & KCPL/GMO have existing standard rates for QF's with more than 100kW capacity. Staff estimates Empire's cost: 8 hrs Analyst @ \$50/hr and 2 hrs Atty @ \$125 hr. \$400 + \$250 = \$650. All utilities have existing standard rates for less than 100 kW (net metering).	20 CSR 240-20.060(4)(A)	Utilities develop standard rates	Less than \$1,000	\$0	\$650	\$0
20 CSR 240-20.060(4)(C)	Utilities adopt Commission-developed standard contract	\$5,000 - \$30,000	\$1,800	\$1,800	\$1,800	\$5,400	Utilities currently required to submit a standard contract pursuant to 4 CSR 240-3.155(2)(B). They will incur minimal costs adopting the Commission's. Staff estimates 16 hrs Analyst @ \$50/hr and 8 hrs Atty @ \$125/hr. \$800 + \$1,000 = \$1,800.
20 CSR 240-20.060(4)(D)	Utilities develop interconnection standards	\$5,000 - \$15,000	\$3,550	\$0	\$3,550	\$7,100	Empire has an interconnection standards document. Staff estimates costs to Ameren & KCPL/GMO to develop: 2 hrs Analyst @ \$50/hr, 40 hrs Engineer @ \$80/hr, and 2 hrs Atty @ \$125/hr. \$100 + \$3,200 + \$250 = \$3,550.
20 CSR 240-20.060(11)(A)	Utilities make biannual tariff filings with standard contracts & standard rates	\$3,000 - \$30,000	\$0	\$0	\$0	\$0	This is an existing requirement under current 4 CSR 240-3.155(3).
\$0	\$0	This is an existing requirement under 18 C.F.R. 292.302(b) (PURPA implementing regulation) and 4 CSR 240-3.155(4).	20 CSR 240-20.060(11)(B)	Utilities make avoided cost & capacity plans publicly available	\$1,000	\$0	\$0
20 CSR 240-20.060(11)(C)	Utilities maintain & aggregate circuit & feeder data	\$25,000 - \$50,000, plus \$50,000 - \$250,000 for tracking system	\$1,440	\$1,440	\$1,440	\$4,320	Rule does not require additional software purchases. Utility may chose a more robust solution for its own

purposes. Staff's estimates initial costs for each utility: 16 hrs Analyst time @ \$50/hr and 8 hrs Engineer time @ \$80/hr. \$800 + \$640 = \$1,440.

TOTAL \$90,000 - \$375,000 \$6,790 \$3,890 \$6,790 \$17,470

Recurring Costs

Total Staff's Estimated Costs	Notes	Proposed Code Section	Description	Ameren's Est Costs	Staff's Est Ameren Costs	Staff's Est Empire Costs	Staff's Est KCPL/GMO Costs
20 CSR 240-20.060(4)(A)	Utilities develop standard rates	\$0	\$0	\$0	\$0	\$0	This cost is not expected to recur.
20 CSR 240-20.060(4)(C)	Utilities adopt Commission-developed standard contract	\$5000 - \$30,000 biennially	\$700 biennially	\$700 biennially	\$875 biennially	\$2275 biennially	See Year 1 Costs for 20 CSR 240-20.060(4)(C), above. For recurring costs, Staff estimates Ameren & Empire: 4 hrs Analyst @ \$50/hr and 4 hrs Atty @ \$125/hr. \$200 + \$500 = \$700. KCPL/GMO: 5 hrs Analyst @ \$50/hr and 5 hrs Atty @ \$125/hr. \$250 + \$625 = \$875.
\$2,970 annually	Occasional updates may occur but not because of this rule. Staff's estimated costs for review for each utility: 2 hrs Analyst @ \$50/hr, 8 hrs Engineer @ \$80/hr, and 2 hrs Atty @ \$125/hr. \$100 + \$640 + \$250 = \$990.	20 CSR 240-20.060(4)(D)	Utilities develop interconnection standards	unknown	\$990 annually	\$990 annually	\$990 annually
\$250 biennially	\$750 biennially	This is an existing requirement under current 4 CSR 240-3.155(3). Under the proposed rule, utilities will have to file as a case, compared to the current JE filing. Staff estimates costs for each utility: 2 hrs Atty @ \$125/hr. = \$250.	20 CSR 240-20.060(11)(A)	Utilities make biannual tariff filings with standard contracts & standard rates	\$3000 - \$30,000 biennially	\$250 biennially	\$250 biennially
20 CSR 240-20.060(11)(B)	Utilities make avoided cost & capacity plans publicly available	\$500 annually	\$0	\$0	\$0	\$0	This is an existing requirement under 18 C.F.R. 292.302(b) (PURPA) implementing

20 CSR 240-20.060(11)(C)	Utilities maintain & aggregate circuit & feeder data	\$5,000 - \$10,000 annually	\$770 annually	\$770 annually	\$900 annually	\$2,440 annually	regulation) and 4 CSR 240-3.155(4). Rule does not require additional software purchases. Staff's estimated recurring costs: 4 hrs Analyst @ \$50/hr and 4 hrs Engineer @ \$80/hr. \$320 + \$250 = \$770.
TOTAL	Annually:	\$5,500 - \$10,000	\$1,760	\$1,760	\$1,890	\$5,410	
Biennially:	\$8,000 - \$60,000	\$950	\$950		\$1,125	\$3,025	
ANNUALIZED		\$17,000 - \$70,500			\$7,000		
Staff annualized by adding half of biennial costs to annual costs.							

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 4240—Public Service Commission
Chapter 20—Electric Utilities**

PROPOSED AMENDMENT

20 CSR 4240-20.065 Net Metering. The commission is amending section (1), section (4), section (5), section (8), section (9), and section (10); and removing section (3), section (7), and deleting the forms which follow the rule in the *Code of State Regulations*.

PURPOSE: This amendment simplifies and improves rules by streamlining and eliminating duplicative requirements and provides clarity language.

(1) Definitions.

(A) Terms defined in 386.890, RSMo shall have the same meaning for purposes of this rule, unless further defined in this rule. Terms defined in 20 CSR 4240-20.100 shall have the same meaning for purposes of this rule.

[(A)](B) Avoided fuel cost [means avoided costs described in 4 CSR 240-20.060 used to calculate the electric utility's cogeneration rate filed in compliance with 4 CSR 240-3.155.] shall have the same meaning as 20 CSR 4240-20.060. The information used to calculate this rate is provided to the commission biennially and maintained for public inspection.

[(B)] Commission means the Public Service Commission of the state of Missouri.

(C) Customer-generator means the owner or operator of a qualified electric energy generation unit that meets all of the following criteria:

1. Is powered by a renewable energy resource;
2. Is an electrical generating system with a capacity of not more than one hundred kilowatts (100 kW);
3. Is located on premises that are owned, operated, leased, or otherwise controlled by the customer-generator;
4. Is interconnected and operates in parallel phase and synchronization with an electric utility and has been approved for interconnection by said electric utility;
5. Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;
6. Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and
7. Contains a mechanism that automatically disables the unit and interrupts the flow of electricity onto the electric utility's electrical lines whenever the flow of electricity to the customer-generator is interrupted.]

[(D)](C) Distribution system means facilities for the distribution of electric energy to the ultimate consumer thereof.

[(E)](D) Electric utility means every electrical corporation as defined in section 386.020(15), RSMo 2000, subject to commission regulation pursuant to Chapter 393, RSMo.

[(F)] Net metering means using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by an electric utility and the electrical energy supplied by the customer-generator to the electric utility over the applicable billing period.]

[(G)](E) Operational means all of the major components of the on-site system have been purchased and installed on the customer-generator's premises and the production of rated net electrical generation has been measured by the electric utility. If a customer has satisfied all of the System Completion Requirements by June 30 of indicated years, but the electric utility is not able to complete all of

the company's steps needed to establish an Operational Date on or before June 30, the rebate rate will be determined as though the Operational Date was June 30. If it is subsequently determined that the customer of the system did not satisfy all Completion Requirements required of the customer on or before June 30, the rebate rate will be determined based on the Operational Date.

[(H)] REC means Renewable Energy Credit or Renewable Energy Certificate which is tradable, and represents that one (1) megawatt-hour of electricity has been generated from a renewable energy resource.

[(I)] Renewable energy resources means, when used to produce electrical energy, the following: wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one (1) of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the Missouri Department of Natural Resources or the Missouri Department of Economic Development's Division of Energy.

[(J)] Staff means the staff of the Public Service Commission of the state of Missouri.]

(2) Applicability. This rule applies to electric utilities and customer-generators.

[(3)] REC Ownership. RECs associated with customer-generated net-metered renewable energy resources shall be owned by the customer-generator; however, as a condition of receiving solar rebates for systems operational after August 28, 2013, customers transfer to the electric utility all right, title, and interest in and to the RECs associated with the new or expanded solar electric system that qualified the customer for the solar rebate for a period of ten (10) years from the date the electric utility confirmed the solar electric system was installed and operational.]

[(4)](3) Electric Utility Obligations.

[(A)] Net metering shall be available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent (5%) of the electric utility's Missouri jurisdictional single-hour peak load during the previous year. The commission may increase the total rated generating capacity of net metering systems to an amount above five percent (5%). However, in a given calendar year, no electric utility shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said electric utility in said calendar year equals or exceeds one percent (1%) of said electric utility's single-hour peak load for the previous calendar year.

[(B)] A tariff or contract shall be offered that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator.

[(C)] The availability of the net metering program shall be disclosed annually to each of its customers with the method and manner of disclosure being at the discretion of the electric utility.

[(D)] For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the electric utility shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

(E) Any costs incurred under this rule by an electric utility not recovered directly from the customer-generator, as identified in (6)(F), shall be recoverable in that electric utility's rate structure.

(F) No fee, charge, or other requirement not specifically identified in this rule shall be imposed unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators.]

(A) In addition to the Electric Utility Obligations set forth in section 386.890, RSMo, the Electric Utility shall describe in its tariffs the calculation of net electrical energy measurement.

[(5)](4) Customer-Generator Liability Insurance Obligation.

(A) Customer-generator systems greater than ten kilowatts (10 kW) shall carry no less than one hundred thousand dollars (\$100,000) of liability insurance, unless for good cause shown, that provides for coverage of all risk of liability for personal injuries (including death) and damage to property arising out of or caused by the operation of the net metering unit. Insurance may be in the form of an existing policy or an endorsement on an existing policy.

(B) Customer-generator systems ten kilowatts (10 kW) or less shall not be required to carry liability insurance.

[(6)](5) Qualified Electric Customer-Generator Obligations.

(A) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers (IEEE), and Underwriters Laboratories (UL) for distributed generation; including, *[but not limited to,]* IEEE 1547a-2014, UL 1703-2002, and UL 1741-2010.

(B) The electric utility may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow an electric utility worker the ability to manually and instantly disconnect the unit from the electric utility's distribution system.

(C) No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any electric utility without written approval by said electric utility that all of the requirements under subsection [(9)(C)] (7)(A) of this rule have been met. For a customer-generator who violates this provision, an electric utility may immediately and without notice disconnect the electric facilities of said customer-generator and terminate said customer-generator's electric service.

(D) A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced and consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric utility to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the electric utility for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the electric utility, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve (12) billing cycles. Any subsequent meter testing, maintenance, or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

(E) Each customer-generator shall, at least once every year, conduct a test to confirm that the net metering unit automatically ceases to energize the output (interconnection equipment output voltage goes to zero (0)) within two (2) seconds of being disconnected from the electric utility's system. Disconnecting the net metering unit from the electric utility's electric system at the visible disconnect switch and measuring the time required for the unit to cease to energize the

output shall satisfy this test.

(F) The customer-generator shall maintain a record of the results of these tests and, upon request, shall provide a copy of the test results to the electric utility.

1. If the customer-generator is unable to provide a copy of the test results upon request, the electric utility shall notify the customer-generator by mail that the customer-generator has thirty (30) days from the date the customer-generator receives the request to provide the results of a test to the electric utility.

2. If the customer-generator's equipment ever fails this test, the customer-generator shall immediately disconnect the net metering unit.

3. If the customer-generator does not provide the results of a test to the electric utility within thirty (30) days of receiving a request from the electric utility or the results of the test provided to the electric utility show that the unit is not functioning correctly, the electric utility may immediately disconnect the net metering unit.

4. The net metering unit shall not be reconnected to the electric utility's electrical system by the customer-generator until the net metering unit is repaired and operating in a normal and safe manner.

[(7) Determination of Net Electrical Energy. Net electrical energy measurement shall be calculated in the following manner:

(A) For a customer-generator, an electric utility shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(B) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(C) If the electricity generated by the customer-generator exceeds the electricity supplied by the electric utility during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with section (4) of this rule and shall be credited with the product of the excess kilowatt-hours generated during the billing period and the rate identified in the electric utility's net metering tariff sheet filed with the commission in the following billing period. This rate is calculated from the electric utility's avoided fuel cost; and

(D) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve (12) months after their issuance, or when the customer-generator disconnects service or terminates the net metering relationship with the electric utility.]

[(8)](6) Net Metering Rates. Each electric utility shall file, **in accordance with 4 CSR-2.065(4)**, on or before January 15 of each odd-numbered year *[for the commission's approval in the electric utility's tariff]*, a rate schedule with a net metering rate that is the same rate as the utility's cogeneration rate **for systems not more than one hundred (100) kilowatts as required in 20 CSR 4240-20.060(4)(A)1**. *[The electric utility's cogeneration rate is filed for the commission's approval in the electric utility's tariff on or before January 15 of every odd-numbered year as required in 4 CSR 240-3.155 Requirements for Electric Utility Cogeneration Tariff Filings section (4). The cogeneration rate is stated in dollars per kilowatt-hour or cents per kilowatt-hour on the cogeneration rate tariff sheet and, likewise, the net metering rate shall be stated in dollars per kilowatt-hour or cents per kilowatt-hour on the net metering rate*

tariff sheet.]

[(9)](7) Interconnection Application/[Agreement].

(A) Each customer-generator and electric utility shall enter into *[the]* an interconnection agreement *[included herein]*, substantially the same as the interconnection application located on the commission's website and incorporated by reference.

1. The interconnection application shall include a signature page for the customer and solar installer to indicate acknowledgment of the entire interconnection application.

[1.]2. If the electric utility so chooses, it may allow customers to apply electronically through the electric utility's website.

A. The interconnection application/*[agreement]* on the electric utility's website shall substantially be the same as the interconnection application/*[agreement included herein]*, located on the commission's website and incorporated by reference.

B. The electronic application/*[agreement]* shall be submitted, or made available in test mode, to the manager of the Energy Unit of the staff for review by staff prior to being placed on the electric utility's website.

C. The electric utility shall notify the manager of the Energy Unit of the staff of any revisions to the electronic application/*[agreement]* on its website within ten (10) working days of when the electronic *[agreement]* application is revised.

[(B) References to a solar rebate in the interconnection application/agreement included herein are not required for electric utilities that are not required to offer solar rebates.

(C) Applications by a customer-generator for interconnection of a qualified electric energy generation unit to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system including, but not limited to, a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the electric utility within thirty (30) days of receipt for systems ten kilowatts (10 kW) or less and within ninety (90) days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the electric utility's system, the customer-generator will furnish the electric utility a certification from a qualified professional electrician or engineer that the installation meets the requirements of subsections (6)(A) and (6)(B). If the application for interconnection is approved by the electric utility and the customer-generator does not complete the interconnection within one (1) year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(D) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application/agreement.]

[(10)](8) [Electric Utility Reporting Requirements.] Annual Net Metering Report. Each year prior to April 15, every electric utility shall—

(A) Submit an annual net metering report to the commission *[and make said report available to a consumer of the electric utility upon request]*, including the following information for the previous calendar year:

1. The total number of customer-generator facilities connected to its distribution system;
2. The total estimated generating capacity of customer-generators that are connected to its distribution system; and
3. The total estimated net kilowatt-hours received from customer-generators; *and]*.

(B) Supply to the manager of the energy department of the commission a copy of the standard information regarding net metering and interconnection requirements provided to customers or posted on the electric utility's website.*];*

(C) Verify compliance with 10 CSR 4240-20.060(11)(C)1. for

customer-generator systems; and

(D) As soon as reasonably possible after the electric utility files its annual net metering report, the commission will place the electronic copies of each electric utility's annual net metering reports on the commission's website in order to facilitate public viewing, as appropriate.

AUTHORITY: sections 386.250 and 393.140, RSMo [2000, and section 386.890.9., RSMo Supp. 2013] 2016. This rule originally filed as 4 CSR 240-20.065. Original rule filed March 11, 2003, effective Aug. 30, 2003. For intervening history, please consult the Code of State Regulations. Amended: Filed May 29, 2020.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with the Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received no later than July 31, 2020, and should include a reference to Commission Case No. EX-2020-0006. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for 10:00 a.m., August 11, 2020, in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.