

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name	<i>10 CSR 10-6.110 Reporting Emission Data, Emission Fees, and Process Information</i>
Type of Rulemaking	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule action:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the proposed rule action by the affected entities:
<i>1,900 sources would be affected by the adoption of the proposed rule action.</i>	<i>All businesses with air pollution permits are affected. Sources with permits include those that have the potential to emit pollutants above specific thresholds. The types of activities that generate emissions include fuel combustion, painting and coating, processing and refining of minerals, and material handling that generates particulate emissions.</i>	<i>The proposed rule will become effective in 2022, and the first emission fees due under the revised emission fee would be for the 2021 emission year. The estimated total cost to comply with the proposed rule change is \$609,190 for emission year 2021, payable by June 1, 2022 during fiscal year 2022, and \$852,866 for emission year 2022, payable by June 1, 2023 during fiscal year 2023. The estimated cost is \$822,045 for emission years 2023 and beyond, payable by June 1 of each following year.</i>
	Two Digit SIC Category*	Number of Facilities
		2018 Total Chargeable Emissions (tons)
		<i>The combined ten-year total cost is \$8,038,416. The rule will continue beyond the ten-year period at the same annual cost as emission year 2023, with no sunset provision.</i>

	01-09: Agriculture, Forestry, and Fishing	40	336	
	10-14: Mining	344	2,163	
	15-17: Construction	3	11	
	20-39: Manufacturing	1,004	52,179	
	40-49: Transportation, Communication s, Sanitary Services	169	70,781	
	50-51: Wholesale Trade	187	1,030	
	52-59: Retail Trade	2	4	
	60-67: Finance, Insurance, and Real Estate	2	9	
	70-89: Services	149	812	
	90-99: Public Administration	0	0	
	Grand Total	1,900	127,325	

**Two digit SIC classifications group businesses into large economic categories. Additional detailed information, down to the most-specific four-digit business classification, is available below.*

The list below is a selection of only the most impacted full SICs based on number of facilities or total 2018 emission tonnage.

SIC Group	Four Digit Detailed SIC	Number of Facilities	2018 Total Chargeable Emissions (tons)
01-09: Agriculture	0724: Cotton Ginning	27	309
10-14: Mining	1422: Crushed and Broken Limestone	304	1,805
	1442: Construction Sand and Gravel	19	38
	1446: Industrial Sand	6	93
	1031: Lead and Zinc Ores	9	164
20-39: Manufacturing	3241: Cement, Hydraulic	9	14,521
	3274: Lime	7	9,456
	3711: Motor Vehicles and Passenger Car Bodies (automobiles)	3	3,153

SIC Group	Four Digit Detailed SIC	Number of Facilities	2018 Total Chargeable Emissions (tons)
	3273: Ready-Mixed Concrete	270	549
	2951: Asphalt Paving Mixtures and Blocks	87	804
40-49: Transportation, Communications, Sanitary Services	4911: Electric Services (fossil fuel power generation)	38	63,330
	4953: Refuse Systems	55	600
	4922: Natural Gas Transmission	15	5,838
50-51: Wholesale Trade	5171: Petroleum Bulk Stations and Terminals	19	437
	5153: Grain and Field Beans	90	337
	5191: Farm Supplies	63	106
70-89: Services	8062: General Medical and Surgical Hospitals	31	315
	7389: Business Services (packaging and labeling)	5	168
	7261: Funeral Services and Crematories	77	75

III. Worksheet

SIC Description	2021 Chargeable Emissions (tons)	2021 Emission Fee at proposed \$53/ton	2022 Chargeable Emissions (tons)	2022 Emission Fee at proposed \$55/ton	2023 Chargeable Emissions (and beyond, tons)	2023 Emission Fee (and beyond) at proposed \$55/ton
Agriculture, Forestry, and Fishing	336	\$ 17,808	336	\$ 18,480	336	\$ 18,480
Construction	11	\$ 583	11	\$ 605	11	\$ 605
Finance, Insurance, and Real Estate	9	\$ 477	9	\$ 495	9	\$ 495
Manufacturing	53,353	\$ 2,827,709	53,353	\$ 2,934,415	53,353	\$ 2,934,415
Mining	2,163	\$ 114,639	2,163	\$ 118,965	2,163	\$ 118,965
Public Administration	-	-	-	-	-	-
Retail Trade	4	\$ 212	4	\$ 220	4	\$ 220
Services	812	\$ 43,036	812	\$ 44,660	812	\$ 44,660
Transportation, Communication, Sanitary Services	64,120	\$ 3,398,360	64,120	\$ 3,526,600	59,717	\$ 3,284,435
Wholesale Trade	1,030	\$ 54,590	1,030	\$ 56,650	1,030	\$ 56,650
Grand Total	121,838	\$ 6,457,414	121,838	\$ 6,701,090	117,435	\$ 6,458,925
Emission Fees at \$48/ton		\$ 5,848,224		\$ 5,848,224		\$ 5,636,880
Net Emission Fee Increase		\$ 609,190		\$ 852,866		\$ 822,045

Ten-year total emission fees:

- Emission Year 2021: \$609,190
- Emission Year 2022: \$852,866
- Emission Year 2023: \$822,045
- Emission Year 2024: \$822,045
- Emission Year 2025: \$822,045
- Emission Year 2026: \$822,045

Emission Year 2027: \$822,045
Emission Year 2028: \$822,045
Emission Year 2029: \$822,045
Emission Year 2030: \$822,045
Total: \$8,038,416

Note: All figures are in current 2018 dollar values. No attempt is made to account for interest or inflation.

IV. Assumptions

The projection of chargeable emission tonnage includes the following assumptions:

1. Emission fee remains at \$48/ton for emission years 2019 and 2020. The proposed rule amendment will take effect for the 2021 emission year and forward, therefore those years include the proposed emission fee of \$53/ton for emission year 2021, and \$55/ton for emission years 2022 forward.
2. Rule requirements for the calculation of emissions subject to fees (chargeable emissions) remain unchanged, including the pollutants subject to fees, the emission caps of 4,000 tons per pollutant and 12,000 tons facility total, and facilities exempt from fees (charcoal kilns and facilities with no production and no emissions for the emission year).
3. Actual emissions for the continuous emission year, corresponding to the calendar year January 1 to December 31, are reported by facilities subject to air permits, per 10 CSR 10-6.110. The emission estimates presented here are based on reported 2018 total chargeable emissions.
4. Emission were projected for all facilities subject to emission fees in 2018. The beginning year for the projections is the 2018 emission year actual reported emissions from all facilities subject to the rule. For the largest emission sources, facility-specific emission projections reflect emission changes due to shutdowns and emission reductions between 2018 and 2023. All other facilities are assumed to operate through the period. The emission projection reflects one facility-specific emission decrease in the "Transportation, Communication, and Sanitary Service" sector. No estimates are added for new facilities that may open during the period. All facility emissions are assumed at a constant level at their 2023 emissions beyond that year.
5. Emission data for 2019 became available near the end of the rule analysis work, though some facilities did not complete their reports as of May 2020. The 2019 data has not been quality assured and was not used for these analyses.
6. The total lifetime rule cost may be reported for rules in the fiscal note. Data is provided for the first ten-year period, with annual data available in the worksheet above if projections are needed beyond ten years. Additional rule analyses are likely as this proposal does not fully meet program solvency needs, and the program is committed to working with fee stakeholders on future solvency issues.
7. All categorization of facilities into private and public ownership are assumed to remain the same as in 2018. No ownership changes from public to private, or vice versa, are expected.
8. All SIC assignments in 2018 are assumed to remain the same in future years.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 16—Drinking Water Fees**

PROPOSED AMENDMENT

10 CSR 60-16.010 Levy and Collection of the Missouri Primacy Fee. The department is amending the purpose statement and sections (2), (3), and (4).

PURPOSE: This amendment revises the amount of the annual Missouri primacy fee and describes the method for collection and delinquent payment of the fee. Section 640.100, RSMo, gives the Missouri Department of Natural Resources the authority to conduct a comprehensive review of this fee and to develop a proposed fee structure based on stakeholder involvement. The proposed amendment was developed by a drinking water stakeholder group.

PURPOSE: This rule levies and sets the amount of the Missouri primacy fee and describes the method of collection and delinquent payment [of the fee]. The fees established in section 640.100.5(2) and (3), RSMo, are effective through December 31, 2021. The fee structure in this rule becomes effective on January 1, 2022.

(2) This rule levies and imposes the Missouri primacy fee authorized by 640.100[15].5(2) and (3), RSMo. Nothing in this rule in any way affects the obligation of a customer to pay the Missouri [P]rimacy [F]ee.

(A) The annual Missouri primacy fee per customer service connection for unmetered customers and customers with meters not greater than one inch (1") in size shall be based upon the number of service connections in the water system serving that customer as of September 1 of each annual fee period as follows:

1 – 1000 connections	\$3.24
1001 – 4000 connections	\$3.00
4001 – 7000 connections	\$2.76
7001 – 10,000 connections	\$2.40
10,001 – 20,000 connections	\$2.16
20,001 – 35,000 connections	\$1.92
35,001 – 50,000 connections	\$1.56
50,001 – 100,000 connections	\$1.32
More than 100,000 connections	\$1.08]
11—10,000 connections	\$5.28
10,001—50,000 connections	\$4.80
50,001—100,000 connections	\$4.20
Greater than 100,000 connections	\$3.48

(B) The annual Missouri primacy fee per service connection for unmetered customers and customers with meters not greater than one inch (1") in size for community water systems with ten (10) or fewer connections shall be fifty dollars (\$50) divided by the number of connections in the water system.

*[(B)](C) The annual primacy fee for customers having meters greater than one inch (>1"), but less than or equal to two inches (≤2") in size, shall be [seven dollars and forty-four cents (\$7.44)] **twenty-one dollars (\$21)**; for customers with meters greater than two inches (>2"), but less than or equal to four inches (≤4") in size, shall be [forty-one dollars and sixteen cents (\$41.16)] **one hundred and two dollars (\$102)**; and for customers with meters greater than four inches (>4") in size shall be [eighty-two dollars and forty-four cents (\$82.44)] **one hundred ninety-eight dollars (\$198)**.*

*[(C)](D) Customers served by multiple connections shall pay an annual primacy fee based on the rates listed in [subsection (2)](B) **this section** for each connection, except that no single facility served by multiple connections shall pay a total of more than five hundred dollars (\$500) per year.*

(3) Fee Period and Collection.

(A) The annual fee period is September 1 through August 31 of each calendar year, unless an alternate schedule [was] has been approved by the department.

[(B) If a service connection has no customer of record for all of the annual fee period, no fee will be collected with respect to that service connection. If the service connection has a customer of record for any part of the annual fee period, or alternate schedule approved by the department, the fee will be pro-rated to reflect time of service.]

(B) If any community water system seeks to change its collection period for the next collection year, it shall submit an alternate fee-period schedule in writing to the department by January 1, identifying whether the fees will be collected monthly, quarterly, or annually. The system's new schedule shall be effective upon the department's approval.

(4) Remitting Fees to the State. A community water system shall be responsible for remitting to the department the **number of active connections and** amount collected from its customers no later than sixty (60) days following the end of the **annual fee period for systems on an annual collection schedule or within sixty (60) days following the end of each fee-period fiscal quarter if the system is on a monthly or quarterly collection schedule. Fee-period fiscal quarters end on November 30, February 28, May 31, and August 31.**

AUTHORITY: section 640.100, RSMo 2016. Emergency rule filed Dec. 14, 1992, effective Dec. 24, 1992, expired April 22, 1993. Original rule filed Dec. 14, 1992, effective Aug. 9, 1993. Amended: Filed April 13, 2018, effective Dec. 30, 2018. Amended: Filed July 10, 2020.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions nine thousand six hundred sixty-three dollars and thirty-six cents (\$9,663.36) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities six million four hundred thirty-two thousand, five hundred seventy-nine dollars and seven cents (\$6,432,579.07) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 10:00 a.m., September 18, 2020. Due to recent concerns regarding the novel coronavirus, or COVID-19, the public hearing will be held with live video streaming available at <https://dnr.mo.gov/videos/live.htm> and by conference phone line at 877-749-7113, participant code 51724. Persons that wish to give testimony at the hearing and to be sworn in by the court reporter over the phone must register with sheri.fry@dnr.mo.gov or by phone at 573-526-2957. Opportunity to be sworn in by the court reporter over the phone to give testimony at the hearing shall be afforded to any interested person. A recording of the public hearing will be available at <https://dnr.mo.gov/env/wpp/stakeholders/index.htm>. Interested persons may submit a statement in support of or in opposition to this proposed amendment until 5:00 p.m., September 25, 2020. Send online comments via the proposed rule web page at <https://apps5.mo.gov/proposed-rules/welcome.action#OPEN>, email comments to sheri.fry@dnr.mo.gov, or written comments to Public Drinking Water Branch Rule Coordinator, Missouri Department of Natural Resources' Water Protection Program, PO Box 176, Jefferson City, MO 65102-0176.

**FISCAL NOTE
PUBLIC COST**

I. RULE NUMBER

Rule Number and Name:	10 CSR 60-16.010 Levy and Collection of the Missouri Primacy Fee
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Any agency or political subdivision connected to a public water system is impacted by this proposed amendment annually.	\$9,663.36

III. WORKSHEET

2017 US Census Bureau

Federal, state, and local government units in Missouri	3,769
Households	2,434,806
Businesses	160,912
Total	2,599,487

% of government units	$3,769/2,599,487 = .0015$
% of households	$2,434,806/2,599,487 = .9366$
% of businesses	$160,912/2,599,487 = .0619$

The new primacy revenue based on our calculator on the web is \$6,442,242.44, taking these percentages and applying as a ratio:

Public entity amount $\$6,442,242.44 \times .0015 = \$9,663.36$

IV. ASSUMPTIONS

1. The proposal developed by stakeholders and approved by the Safe Drinking Water Commission differs from numbers included in this document. The stakeholder proposal lists the annual fee collected and submitted to the Department by the water system; however, the water system retains 2% of the fees collected per Section 640.100.6, RSMo. Development of this fiscal note includes the actual fee charged to customers.
2. Annual calculations assume the number water systems and number of connections remains static.
3. Customers of the water system pay the annual Primacy Fee.
4. Calculations are based on FY19 data.
5. The Department does not track the type of customers of public water systems. Numbers used in this estimate are based on information from the United States Census Bureau found at the following website: <https://data.census.gov/cedsci/profile?q=0400000US29&q=Missouri>. In determining the cost to public entities, the Department assumed the same percentage of households, businesses, and public entities are on private water supplies, and that equal representation of these three types of customers fall in each of the different connection and meter size tiers of the Primacy Fee.
6. The Department anticipates that the increased costs will recur over the life of the rule.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name	10 CSR 60-16.010-Levy and Collection of the Missouri Primacy Fee
Type of Rulemaking	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule action:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the proposed rule action by the affected entities:
139 – Total number of customer connections to water systems that serve 10 or fewer service connections.	Every business connected to a public water system is impacted annually by this proposed amendment.	\$1,399.64
938,987 – Total number of customer connections to water systems that serve from 11 – 10,000 service connections.		\$2,199,288.48
331,740 – Total number of customer connections to water systems that serve from 10,001 – 50,000 service connections.		\$958,179.60
224,147 – Total number of customer connections to water systems that serve from 50,001 – 100,000 service connections.		\$645,543.36
531,289 – Total number of customer connections to water systems that serve greater than 100,000 service connections.		\$1,275,093.60
49,717 – Total number of customer connections with a water meter greater than 1" but less than 2".		\$674,162.52
6,518 – Total number of customer connections with a water meter greater than 2" but less than 4".		\$396,555.12
2,527 – Total number of customer connections with a water meter greater than 4".		\$292,020.12
See below for calculations		Private entity amount \$6,442,242.44 x (.9366 + .0619) = \$6,432,579.07

III. Worksheet

37 water systems with 10 or fewer connections	37
New fee per system - \$50.00	<u>x \$50.00</u>
	\$1,850.00
Previous fee of \$3.24 per connection with 139 connections	139
	<u>x 3.24</u>
	\$450.36
Total annual increase for systems with ten or fewer connections	\$1,399.64

Total increases for each section are annual fees.Number of public water system customer connections from 11 – 10,000: 938,987

<u>Previous fee</u>	<u>Number of Connections</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$3.24	239,011	\$774,395.64	\$5.28	\$1,261,978.08	\$487,582.44
\$3.00	388,395	\$1,165,185.00	\$5.28	\$2,050,725.60	\$885,540.60
\$2.76	197,744	\$545,773.44	\$5.28	\$1,044,088.32	\$498,314.88
\$2.40	113,837	\$273,208.80	\$5.28	\$601,059.36	<u>\$327,850.56</u>

Total increase for customers of public water systems with 11 - 10,000 connections: \$2,199,288.48Number of public water system customer connections from 10,001 – 50,000: 331,740

<u>Previous fee</u>	<u>Number of Connections</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$2.16	117,882	\$254,625.12	\$4.80	\$565,833.60	\$311,208.48
\$1.92	127,580	\$244,953.60	\$4.80	\$612,384.00	\$367,430.40
\$1.56	86,278	\$134,593.68	\$4.80	\$414,134.40	<u>\$279,540.72</u>

Total increase for customers of public water systems with 10,001 – 50,000 connections: \$958,179.60Number of public water system customer connections from 50,001 – 100,000: 224,147

<u>Previous fee</u>	<u>Number of Connections</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$1.32	224,147	\$295,874.04	\$4.20	\$941,417.40	\$645,543.36

Total increase for customers of public water systems with 50,001 – 100,000 connections: \$645,543.36Number of public water system customer connections from 50,001 – 100,000: 531,289

<u>Previous fee</u>	<u>Number of Connections</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$1.08	531,289	\$573,792.12	\$3.48	\$1,848,885.72	\$1,275,093.60

Total increase for customers of public water systems with > than 100,000 connections: \$1,275,093.60Number of public water system customer connections with meters >1" but <2": 49,717

<u>Previous fee</u>	<u>Number of Connections</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$7.44	49,717	\$369,894.48	\$21.00	\$1,044,057.00	\$674,162.52

Total increase for customers of public water systems with meters >1" but <2": \$674,162.52Number of public water system customer connections with meters >2" but <4": 6,518

<u>Previous fee</u>	<u>Number of Connections</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>

\$41.16 6,518 \$268,280.88 \$102.00 \$664,836.00 \$396,555.12

Total increase for customers of public water systems with meters >2" but <4": \$396,555.12

Number of public water system customer connections with meters >4": 2,527

<u>Previous fee</u>	<u>Number of Connections</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$82.44	2,527	\$208,325.88	\$198.00	\$500,346.00	\$292,020.12

Total increase for customers of public water systems with meters >4": \$292,020.12

Total increase for public and private entities: \$6,442,242.48

2017 US Census Bureau

Federal, state, and local government units in Missouri	3,769
Households	2,434,806
Businesses	160,912
Total	2,599,487

% of government units $3,769/2,599,487 = .0015$
 % of households $2,434,806/2,599,487 = .9366$
 % of businesses $160,912/2,599,487 = .0619$

The new primacy revenue based on the calculator on the Department's webpage is \$6,442,242.44, taking these percentages and applying as a ratio:

Private entity amount ($\$6,442,242.44 \times (.9366 + .0619)$) = **\$6,432,579.07**

IV. ASSUMPTIONS

1. The proposal developed by stakeholders and approved by the Safe Drinking Water Commission differs from numbers included in this document. The stakeholder proposal lists the annual fee collected and submitted to the Department by the water system; however, the water system retains 2% of the fees collected per Section 640.100.6, RSMo. Development of this fiscal note includes the actual fee charged to customers.
2. Calculations are based on FY19 data.
3. Annual calculations assume the number of water systems and number of connections remains static.
4. Customers of the water system pay the annual Primacy Fee.
5. The Department does not track the type of customers of public water systems. Numbers used in this estimate are based on information from the United States Census Bureau found at the following website: <https://data.census.gov/cedsci/profile?q=0400000US29&q=Missouri>. In determining the cost to private entities, the Department assumed the same percentage of households, businesses, and public entities are on private water supplies, and that equal representation of these three types of customers fall in each of the different connection and meter size tiers of the Primacy Fee.
6. The Department anticipates that the increased costs will recur over the life of the rule.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 16—Drinking Water Fees

PROPOSED AMENDMENT

online comments via the proposed rule web page at <https://apps5.mo.gov/proposed-rules/welcome.action#OPEN>, email comments to sheri.fry@dnr.mo.gov, or written comments to Public Drinking Water Branch Rule Coordinator, Missouri Department of Natural Resources' Water Protection Program, PO Box 176, Jefferson City, MO 65102-0176.

10 CSR 60-16.020 Laboratory Certification Fee. The department is amending the purpose statement and section (1) and adding section (2).

PURPOSE: This amendment revises the fees for certification of laboratories that conduct chemical and bacteriological testing of public drinking water. The proposed amendment was developed by a drinking water stakeholder group.

PURPOSE: This rule establishes fees for certification of laboratories [to] that conduct chemical and bacteriological testing of drinking water.

(1) [The following laboratory] **Laboratories seeking certification [fees shall be paid before a certification will be issued] for chemical testing of drinking water [under 10 CSR 60-5.020. Fees are listed below.] shall pay the following fees as applicable:**

In-state Laboratory Audit Fee	\$2,500
	once every three- (3-) year certification cycle
Three- (3-) year Certification Fee	
Organic Chemicals	\$2,700
Inorganic Chemicals	\$1,500

(2) **Laboratories, except those owned by a political subdivision as defined by section 70.210, RSMo, seeking certification for bacteriological testing of drinking water shall pay the following fees as applicable beginning January 1, 2022:**

In-state Laboratory Audit Fee	\$500
	once every three- (3-) year certification cycle
Three- (3-) year Certification Fee	\$500

AUTHORITY: section 640.100, RSMo 2016. Original rule filed Dec. 14, 1992, effective Aug. 9, 1993. Amended: Filed April 13, 2018, effective Dec. 30, 2018. Amended: Filed July 10, 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 cost private entities ten thousand one hundred sixty-six dollars and sixty-seven cents (\$10,166.67) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 10:00 a.m., September 18, 2020. Due to recent concerns regarding the novel coronavirus, or COVID-19, the public hearing will be held with live video streaming available at <https://dnr.mo.gov/videos/live.htm> and by conference phone line at 877-749-7113, participant code 51724. Persons that wish to give testimony at the hearing and to be sworn in by the court reporter over the phone must register with sheri.fry@dnr.mo.gov or by phone at 573-526-2957. Opportunity to be sworn in by the court reporter over the phone to give testimony at the hearing shall be afforded to any interested person. A recording of the public hearing will be available at <https://dnr.mo.gov/env/wpp/stakeholders/index.htm>. Interested persons may submit a statement in support of or in opposition to this proposed amendment until 5:00 p.m., September 25, 2020. Send

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name	10 CSR 60-16.020 – Laboratory Certification Fee
Type of Rulemaking	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule action:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the proposed rule action by the affected entities:
28 in-state, privately owned bacteriological laboratories currently certified in Missouri	NAICS – 541380, laboratory testing SIC – 8734, laboratory testing	Audit - \$4,666.67 annually
33 private bacteriological laboratories currently certified in Missouri	NAICS – 541380, laboratory testing SIC – 8734, laboratory testing	Certification - \$5,500 annually

III. Worksheet

Current fee for bacteriological laboratory audits is zero (-0-)
 Proposed fee per 3-year period \$500
 Number of in-state, privately owned bacteriological laboratories certified in Missouri x 28
 \$14,000/3
Annual proposed fee: 4,666.67

Current fee for bacteriological laboratory certification is zero (-0-)
 Proposed fee per 3-year certification \$500
 Number of bacteriological laboratories certified in Missouri x 33
 \$16,500/3
Annual proposed fee: \$5.500

IV. Assumptions

1. Annual calculations assume the number of bacteriological laboratories remains static.
2. Numbers are based on FY19 data.
3. Out of state laboratories are exempt from the laboratory audit fee in this proposed amendment. There are currently five out of state, private laboratories certified in Missouri.
4. The Department anticipates that the increased costs will recur over the life of the rule.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 16—Drinking Water Fees**

PROPOSED AMENDMENT

10 CSR 60-16.030 Laboratory Services and Program Administration Fees. The department is amending the purpose statement and sections (1) and (2), removing section (3), and assigning and amending those subsections to section (2).

PURPOSE: This amendment revises the fee structure for laboratory services and program administration fees for public water systems in Missouri and clearly states those systems that are exempt from the rule. Section 640.100, RSMo, gives the Missouri Department of Natural Resources the authority to conduct a comprehensive review of this fee and to develop a proposed fee structure based on stakeholder involvement. The proposed amendment was developed by a drinking water stakeholder group.

PURPOSE: This rule levies and sets the amount of the annual laboratory services and program administration fees and describes the method of remitting the fee to the department. The fees established in section 640.100.3, RSMo, are effective through December 31, 2021. The fee structure in this rule becomes effective on January 1, 2022.

(1) This rule applies to all public water systems **except those owned by a political subdivision as defined by section 70.210, RSMo.**

(2) This rule establishes the laboratory services and program administration fees authorized by section 640.100.3, RSMo. *The fees cover the reasonable costs of laboratory services, both within the Department of Natural Resources and the Department of Health and Senior Services, and program administration, not to exceed the statutory limits of two hundred dollars (\$200) for a supplier servicing less than four thousand one hundred (4100) service connections, three hundred dollars (\$300) for a supplier serving less than seven thousand six hundred (7600) service connections, five hundred dollars (\$500) for a supplier serving seven thousand six hundred (7600) or more service connections, and five hundred dollars (\$500) for a supplier that uses surface water., at the following amounts:*

[(3) The laboratory services and program administration fees are established at the following amounts. The fees are based on the estimated annual costs for laboratory services and program administration incurred by the state per public water system not to exceed the statutory limits shown in section (2) of this rule.]

(A) **The [A]annual fee[s] for a transient noncommunity water system[—] is one hundred fifty dollars (\$150).**

	<i>[Laboratory Services and Program Administration Fees</i>
<i>Number of Service Connections</i>	<i>Fees</i>
<i>(any)</i>	<i>\$ 100]</i>

(B) Annual fees for all secondary public water systems and for public water systems, except transient noncommunity water systems, that use groundwater, including groundwater under the direct influence of surface water—

	Laboratory Services and Program Administration Fees
Number of Service Connections	Fees
<i>[less than 4100</i>	<i>\$200</i>
<i>4100 to 7599</i>	<i>\$300]</i>
Less than 7,600	\$300
<i>7,600 or more</i>	<i>\$500</i>

(C) **The [A]annual fee[s] for public water systems, except transient noncommunity water systems, that use surface water, including systems using both surface water and groundwater[—], is seven hundred fifty dollars (\$750).**

	<i>[Laboratory Services and Program Administration Fees</i>
<i>Number of Service Connections</i>	<i>Fees</i>
<i>(any)</i>	<i>\$500]</i>

AUTHORITY: section 640.100, RSMo 2016. Original rule filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed April 13, 2018, effective Dec. 30, 2018. Amended: Filed July 10, 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 cost private entities one hundred thirty thousand four hundred dollars (\$130,400) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *A public hearing on this proposed amendment will begin at 10:00 a.m., September 18, 2020. Due to recent concerns regarding the novel coronavirus, or COVID-19, the public hearing will be held with live video streaming available at <https://dnr.mo.gov/videos/live.htm> and by conference phone line at 877-749-7113, participant code 51724. Persons that wish to give testimony at the hearing and to be sworn in by the court reporter over the phone must register with sheri.fry@dnr.mo.gov or by phone at 573-526-2957. Opportunity to be sworn in by the court reporter over the phone to give testimony at the hearing shall be afforded to any interested person. A recording of the public hearing will be available at <https://dnr.mo.gov/env/wpp/stakeholders/index.htm>. Interested persons may submit a statement in support of or in opposition to this proposed amendment until 5:00 p.m., September 25, 2020. Send online comments via the proposed rule web page at <https://apps5.mo.gov/proposed-rules/welcome.action#OPEN>, email comments to sheri.fry@dnr.mo.gov, or written comments to Public Drinking Water Branch Rule Coordinator, Missouri Department of Natural Resources' Water Protection Program, PO Box 176, Jefferson City, MO 65102-0176.*

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name	10 CSR 60-16.030 – Laboratory Services and Program Administration Fees
Type of Rulemaking	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule action:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the proposed rule action by the affected entities:
1,079 - Transient noncommunity public water systems.	NAICS – 221310, water supply systems SIC – 4941, water supply systems	\$53,950 annually
702 - Other water systems including secondary and public water systems, excluding transient systems that use groundwater.	NAICS – 221310, water supply systems SIC – 4941, water supply systems	\$70,200 annually
25 - Surface water systems – any number of service connections.	NAICS – 221310, water supply systems SIC – 4941, water supply systems	\$6,250 annually

III. WORKSHEET

Transient noncommunity water systems in Missouri 1,079
 Current fee is \$100/year with an increase to \$150/year x \$50 increase
Annual increase for transient noncommunity water systems: **\$53,950**

Other water systems in Missouri
 Systems serving less than 4,100 connections – current fee \$200/year increase to \$300/year
 Number of systems 702
x \$100 increase
 Annual increase for systems with less than 4,100 service connections **\$70,200**

Systems serving 4,100 to 7,599 connections current is \$300/year – no fee increase
 Number of systems - 2, no annual increase for systems with 4,100 to 7,599 service connections -0-

Systems serving 7,600 or more connections current fee is \$500/year – no fee increase
 Number of systems - 2, no annual increase for systems with 7,600 or more service connections -0-

Total annual increase for other groundwater systems: **\$70,200**

Surface Water Systems 25
 Current fee is \$500/year with an increase to \$750/year x 250 increase
Annual increase for surface water systems: **\$6,250**

IV. ASSUMPTIONS

1. Annual calculations assume the number water systems and number of connections remains static.
2. Numbers are based on FY19 data.
3. This rule applies to all public water systems except those owned by a political subdivision as defined in Section 70.210, RSMo.
4. The Department anticipates that the increased costs will recur over the life of the rule.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 16—Drinking Water Fees**

PROPOSED RULE

10 CSR 60-16.040 Operator Certification Fees

PURPOSE: This rule sets forth the drinking water operator certification fee structure for activities under 10 CSR 60. The proposed rule was developed by a drinking water stakeholder group.

(1) All applications for drinking water operator certification must meet the requirements of 10 CSR 60-14.020. The following fees shall be assessed for drinking water operator certification beginning January 1, 2022:

(A) The application fee for the certification examination is fifty dollars (\$50). Each retake of the exam is fifty dollars (\$50);

(B) The application fee for certification by reciprocity is seventy-five dollars (\$75);

(C) The fee to renew each certificate is sixty dollars (\$60). Certificates must be renewed every three (3) years; and

(D) A late fee of thirty-seven dollars and fifty cents (\$37.50) per month, up to a total of seventy-five dollars (\$75), is assessed for any certificate renewed after the expiration date.

(2) All certification and examination fees submitted are nonrefundable and nontransferable.

AUTHORITY: section 640.100, RSMo 2016. Original rule filed: July 10, 2020. Effective: Jan. 1, 2022.

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

PRIVATE COST: This proposed rule will cost private entities forty-two thousand seventy-five dollars (\$42,075) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 10:00 a.m., September 18, 2020. Due to recent concerns regarding the novel coronavirus, or COVID-19, the public hearing will be held with live video streaming available at <https://dnr.mo.gov/videos/live.htm> and by conference phone line at 877-749-7113, participant code 51724. Persons that wish to give testimony at the hearing and to be sworn in by the court reporter over the phone must register with sheri.fry@dnr.mo.gov or by phone at 573-526-2957. Opportunity to be sworn in by the court reporter over the phone to give testimony at the hearing shall be afforded to any interested person. A recording of the public hearing will be available at <https://dnr.mo.gov/env/wpp/stakeholders/index.htm>. Interested persons may submit a statement in support of or in opposition to this proposed amendment until 5:00 p.m., September 25, 2020. Send online comments via the proposed rule web page at <https://apps5.mo.gov/proposed-rules/welcome.action#OPEN>, email comments to sheri.fry@dnr.mo.gov, or written comments to Public Drinking Water Branch Rule Coordinator, Missouri Department of Natural Resources' Water Protection Program, PO Box 176, Jefferson City, MO 65102-0176.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name	10 CSR 60-16.040 – Operator Certification Fees
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule action:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the proposed rule action by the affected entities:
5721 – Number of drinking water operator certificates renewed every 3-years.	NAICS-221310, water system operators, SIC – 4941, water system operators	\$28,605 annually
678 – Number of exams given annually to drinking water operators for certification.		\$3,390 annually
281 – Number of exam retakes given annually to drinking water operators for certification.		\$8,430 annually
28 – Number of operators paying late fees for late renewal of operator certificate.		\$1,540 annually
11 – Number of drinking water operators seeking certification through reciprocity.		\$110 annually

III. WORKSHEET

Drinking water operator certificates renewed every 3 years

<u>Previous fee</u>	<u>Number of Certificates</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$45 ¹	5721	\$85,815 ¹	\$60	\$114,420 ¹	\$28,605 ¹

Drinking water operator certification exams

<u>Previous fee</u>	<u>Number of Exams</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$45	678	\$30,510	\$50	\$33,900	\$3,390

Drinking water operator certification exam retakes

<u>Previous fee</u>	<u>Number of Retakes</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$20	281	\$5,620	\$50	\$14,050	\$8,430

Drinking water operator certification late fees

<u>Previous fee</u>	<u>Number of Late Fees</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$20	28	\$560	\$75	\$2,100	\$1,540

Drinking water operator certification reciprocity applications

<u>Previous fee</u>	<u>Number of Applications</u>	<u>Amount Generated</u>	<u>New Fee</u>	<u>Amount Generated</u>	<u>Increase</u>
\$65	11	\$715	\$75	\$825	\$110

IV. ASSUMPTIONS

1. The certification fee is a 3-year certificate. Calculations are annual costs.
2. The basis for the calculation of costs is on proposed increases to current fees in 10 CSR 60-14.020. The department is proposing an amendment to 10 CSR 60-14.020 to move the fees to Chapter 16 for consistency.
3. Annual calculations assume the number of drinking water operators remains static.
4. Numbers are based on FY19 data.
5. These fees are the sole responsibility of the drinking water operator per 10 CSR 60-14.020.
6. The department anticipates that the increased costs will recur over the life of the rule.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement, and Procedure of General Applicability

PROPOSED RULE

13 CSR 70-3.320 Electronic Visit Verification (EVV)

PURPOSE: This rule sets forth requirements for use of electronic verification of services that the MO HealthNet Division may identify and provide to a MO HealthNet participant with a prior authorization or an approved care plan. This rule also defines terms used by MO HealthNet in establishing procedures for the Electronic Visit Verification (EVV) requirements for Medicaid funded in-home services. These definitions apply solely to the information in this chapter. This rule further establishes the minimum necessary criteria required of Medicaid funded Home and Community Based Services provider agencies in relation to implementation of an EVV system. This rule establishes the minimum necessary criteria of the EVV system required to document delivery of Medicaid funded Home and Community Based Services provided in the home of the MO HealthNet participant. Failure to comply with requirements in this section may result in claim denial or termination of contract to deliver services through the MO HealthNet program.

(1) Definitions.

(A) “Agency Model Services” shall mean a service delivery option in which a contracted agency directs service delivery.

(B) “Aggregator Solution” shall mean the electronic system that supports the collection of electronic visit verification vendor data and stores the data for purposes of analysis and monitoring.

(C) “Direct Care Worker” shall mean the individual providing the Medicaid funded services to the MO HealthNet participant, either through an agency based or self-directed model.

(D) “Electronic Visit Verification (EVV)” shall mean electronic technology used for the purpose of recording the date, location, begin time, end time, type of service, and any related tasks. EVV also verifies the identity of the MO HealthNet participant and direct care worker in relation to Medicaid funded services authorized by the Department of Health and Senior Services (DHSS) or the Department of Mental Health (DMH).

(E) “Exception” shall mean any manual adjustment or update to an EVV record, identified by the EVV system and the aggregator solution.

(F) “MO HealthNet Participant” shall mean an individual who the Family Support Division has determined eligible for MO HealthNet benefits who is receiving Medicaid funded services authorized by the Department of Health and Senior Services or the Department of Mental Health.

(G) “Fiscal Agent” shall mean a Person or Entity that provides financial management services to a self-directed employer.

(H) “Manual Visit Entry” shall mean the entry of a paper record, used in exigent circumstances for a provider visit to a participant, into the EVV solution. The paper record shall be maintained by the provider agency and made available upon request from state agency.

(I) “Provider Agency” shall mean an agency authorized to deliver Medicaid funded services or other Medicaid funded services as defined in this rule, or a fiscal agent, as authorized by the Department of Health and Senior Services or the Department of Mental Health.

(J) “Reason Codes” shall mean codes established by electronic visit verification vendors and utilized by personal care service providers to explain a manual visit entry/edit or an acknowledgement of exception; passed along to aggregator solution.

(K) “Self-Directed Services” shall mean a service delivery option in which a MO HealthNet participant employs a direct care worker and directs delivery of service themselves.

(L) “Services” shall mean all Medicaid funded services or other service required by the state to use EVV including:

1. Advanced Personal Care;
2. Chore Services;
3. Consumer-Directed/Self-Directed Personal Care;
4. Homemaker Services;
5. In-Home Respite authorized by the Department of Health and Senior Services;
6. Personal Care;
7. Any of the above services reimbursed by a managed care organization; and
8. Any services where federal or state statute or rule requires EVV, but not specifically listed above.

(M) “Task” shall mean, as applicable, description of a service or services including, but not limited to, tasks authorized on the care plan.

(2) Provider Agency Responsibilities regarding Electronic Visit Verification.

(A) Provider agencies must communicate with MO HealthNet Participants regarding the requirement to utilize EVV to document receipt of services as a condition of participation in services. Provider agencies delivering services shall contract with an EVV vendor who meets all criteria established in this rule.

(B) Provider agencies and self-directed fiscal agents who deliver or administer services through Medicaid funding shall utilize EVV for all visits. EVV requirements are applicable to services authorized through the Department of Health and Senior Services and the Department of Mental Health.

(C) EVV requirements do not apply to the following services:

1. Authorized Nurse Visits;
2. Private Duty Nursing;
3. Provider Reassessments;
4. Assisting individuals with their necessary daily needs during delivery of other DMH Home and Community Based Services (HCBS) waiver services; or
5. Services provided in a residential/group setting.

(D) Except as provided in subsection (2)(C) of this rule, all MO HealthNet Participants who receive services must utilize EVV. MO HealthNet participants who refuse to utilize an electronic system shall no longer be eligible to receive Medicaid funded services as defined in this rule.

(E) Provider agencies must work with MO HealthNet participants to identify the provider’s chosen EVV solution that best accommodates the participant’s individual needs. Documentation of any concern or barrier regarding a specific form of EVV shall be reported to DHSS and/or DMH as the authorizing agency.

(F) Manual visit entry shall be utilized only when the EVV system is unavailable or when exigent circumstances, documented by the provider agency, make usage of the system impossible or impractical. The provider agency shall enter justification documentation into the EVV system. Information shall include the date and time of the manual entry, the reason for the entry, and the identification of the person making the entry. The provider agency must pass a manual entry indicator and reason for manual entry to the aggregator solution within documentation timeframes established by the MO Medicaid Audit and Compliance Unit.

(G) Any adjustment or exception requires the provider agency to enter justification documentation into the EVV system within documentation timeframe requirements established by 13 CSR 70-3.030(3)(A)38. Information must include the date and time of the entry and/or update, the reason for the entry and/or update, and the identification of the person making the entry and/or update.

(H) Provider agencies shall report any suspected falsification of EVV data to the Missouri Medicaid Audit and Compliance Unit via the standard reporting process as defined by the Missouri Medicaid Audit and Compliance Unit within two (2) business days of discovery.

(I) All provider agencies must interface EVV data with an aggregator solution designated by the Department of Social Services (DSS) in a format and at a frequency specified by DSS.

(3) Electronic Visit Verification Vendor Responsibilities.

(A) Pursuant to this rule, the DSS or its designee must approve the EVV system utilized by a provider agency. In order to be approved, the EVV system must have a primary, secure method for collecting visit data through use of one (1) or more of the following:

1. Location technologies, including but not limited to Global Positioning System (GPS);
2. Telephony (if utilized, the telephone number from which the call is placed is used in lieu of GPS coordinates and must be a telephone number from an established landline in the participant's place of residence);
3. Fixed devices placed in the home of the MO HealthNet participant which generate a one- (1-) time password or code;
4. Biometric recognition; or
5. Alternative technology that meets the requirements of this rule.

(B) The EVV vendor must register with the Missouri Medicaid Audit and Compliance unit and be approved by the Department of Social Services or its designee pursuant to this rule.

(C) The aggregator solution vendor must certify the EVV vendor has successfully interfaced and has the ability to securely exchange required data with the aggregator solution before DSS can grant approval for registration.

(D) Any cost related to development, modification, or testing of EVV systems shall be the responsibility of the EVV vendor.

(E) In the event of modifications of the state's requirements or policies affecting the electronic collection of visit data, EVV vendors must update systems as necessary and, in a timeframe determined by the state.

(F) The DSS may require re-approval of any qualifying EVV system in circumstances including, but not limited to, a change in data requirements that must be transmitted to the aggregator component or failure to maintain compliance with the department's requirements. Any cost related to re-testing or re-approval shall be the responsibility of the EVV vendor.

(G) EVV vendors must provide the training necessary for provider agency staff to fully utilize the capabilities of the EVV system. Additionally, the EVV vendor must provide support for the system during standard business hours (8:00 am to 5:00 pm Central Time Zone) at a minimum.

(H) EVV vendors shall successfully complete all training required by the aggregator system before being registered as a qualifying EVV vendor.

(I) EVV systems shall have a minimum of two (2) alternative forms of recording visit data, one (1) of which must be manual visit entry. In the event of system failure or natural disaster, manual visit entry may be used for recording visit data if electronic entry is impossible or impractical.

(J) When employing any form of EVV aside from the use of a designated landline telephone, the EVV system must use location technologies to record the location of the direct care worker at the start and stop of service delivery.

(K) For situations in which the provider agency's EVV system does not provide adequate network capacity, the EVV system shall have the ability to enter visit information in an offline mode and upload upon accessing network connectivity.

(L) At a minimum, the EVV system shall meet the following requirements:

1. Record the type of service performed, including individual tasks as authorized or progress notes dependent on requirements of the authorizing program;
2. Document and verify the MO HealthNet participant's identity, either by a unique number assigned to the MO HealthNet participant, biometric recognition, or through alternative technology;

3. Document and verify the direct care worker by the assignment of a personal identification number unique to the direct care worker or through alternative technology;

4. Document the date of services delivered;

5. Document the time services begin to the minute;

6. Document the time services end to the minute; and

7. Document the location in which the services began and ended.

(M) In addition, the EVV system must demonstrate the following requirements are met:

1. Accept and update the plan of care as entered or modified by DHSS or DMH;

2. Allow for an unlimited number of service codes and tasks to be available for selection as approved by DHSS or DMH;

3. Allow for direct care workers to access the same MO HealthNet participant record for verification of service delivery more than once in a twenty-four- (24-) hour period;

4. Allow for multiple service delivery locations for each MO HealthNet participant, including multiple locations in a single visit;

5. Accommodate more than one (1) MO HealthNet participant and/or direct care worker in the same home or at the same phone number;

6. Document the delivery of multiple types of services during a single visit;

7. Maintain a reliable backup and recovery process to ensure that the EVV system preserves all data in the event of a system malfunction or disaster;

8. Be capable of retrieving current and archived data to produce reports of services and tasks delivered, MO HealthNet participant identity, Direct Care Worker identity, begin and end time of services, begin and end location of service delivery, and dates of service in summary fashion that constitutes adequate documentation of services delivered;

9. Allow for manual entry with required justification including a reason for the manual entry with the reason code and manual entry indicator passed to the aggregator solution;

10. Be capable of creating an exception when the direct care worker accesses the system from a location other than the authorized service location; and

11. Retain all data regarding the delivery of services as required by law, but at a minimum of six (6) years from the date of service. Fiscal and medical records shall coincide with and fully document services billed to the MO HealthNet agency. Providers must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, or retain adequate documentation for services billed to the MO HealthNet program, as specified above, is a violation of this regulation.

(N) Nothing in this rule shall limit the provider agency's ability to accrue partial units pursuant to 13 CSR 70-91.010.

(O) EVV systems shall be capable of producing reimbursement requests for participant approval that ensure accuracy and compliance with program expectations of both the participant and the provider agency.

(P) Reports from the EVV system are subject to review and audit by the Departments of Social Services, Health and Senior Services, Mental Health, or any federal agency, or their designee.

AUTHORITY: sections 208.201 and 660.017, RSMo 2016. Original rule filed July 9, 2020.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions two million dollars (\$2,000,000) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities nineteen million, two hundred thousand dollars (\$19,200,000) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule 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.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 – Social Services
Division Title: Division 70 – MO HealthNet Division
Chapter Title: Chapter 3 – Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

Rule Number and Name:	13 CSR 70-3.320 Electronic Visit Verification
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	\$2,000,000 (\$200,000 GR/\$1,800,000 Fed)
Department of Health and Senior Services	\$0
Department of Mental Health	\$0

III. WORKSHEET

Based on information provided by multiple aggregator solution vendors, the cost of development and implementation of an aggregator solution ranges from \$1,000,000 to \$3,000,000, dependent upon the requirements and expectations of the State. Due to the significant difference in estimates, the State anticipates a number in the mid-range. MHD will be requesting an enhanced match rate of 90% federal funding for implementation of the system.

IV. ASSUMPTIONS

This rule is a result of a federal mandate to implement Electronic Visit Verification (EVV) for all personal care services statewide. The aggregator solution is required in order to monitor EVV utilization as well as to identify trends and concerns. If not implemented, the State will lose federal match on all personal care services delivered through the Medicaid program.

**FISCAL NOTE
 PRIVATE COST**

Department Title: Title 13 – Social Services
Division Title: Division 70 – MO HealthNet Division
Chapter Title: Chapter 3 – Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

Rule Number and Title:	13 CSR 70-3.320
Type of Rulemaking:	Proposed Rule

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:
1,500	Personal Care Service Providers	\$19,200,000

III. WORKSHEET

The majority of personal care service providers in Missouri are already in compliance with Electronic Visit Verification (EVV) due to existing state regulation. MO HealthNet expects the fiscal impact to this population to be limited as they may need to make modifications but should not have to acquire a new system.

A smaller population of providers (approximately 400) will be required to identify and contract with an EVV vendor, as they currently have nothing in place. The cost of EVV systems varies greatly and is dependent on a number of factors, including the complexity of functionality and the number of participant/agency users. Based on estimates from a variety of EVV vendors, the average cost of EVV is approximately \$20 per month per participant. The monthly cost for personal service providers can vary greatly as there are agencies with a very small number of participants and those with over 1,000.

IV. ASSUMPTIONS

The cost of compliance is challenging to determine as it varies greatly based upon the complexity of the system, the size of the provider agency, and other factors. Using information gathered from multiple EVV vendors, the cost may vary from \$10 - \$30 monthly dependent upon the system. Assuming both high and low end options, MO HealthNet estimates that the average price per participant is \$20 monthly or \$240 annually.

This rule is a result of a federal mandate to implement Electronic Visit Verification (EVV) for all personal care services statewide. The aggregator solution is required in order to monitor EVV utilization as well as to identify trends and concerns. If not implemented, the State will lose federal match on all personal care services delivered through the Medicaid program.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 20—County Employees' Deferred Compensation Plan

PROPOSED AMENDMENT

16 CSR 50-20.070 Distribution of Accounts. The board of directors of the County Employees' Retirement Fund is deleting sections (1) through (9) and renumbering the remaining section.

PURPOSE: This amendment removes provisions which are duplicated in 16 CSR 50-20.120(4) or superseded by 16 CSR 50-20.120(7).

[(1) Eligibility for Payment. Distribution to a Participant of his or her Account shall be made no earlier than—

- (A) Separation from Service;*
- (B) The calendar year in which the Participant attains age seventy and one-half (70 1/2);*
- (C) The date the Board approves a distribution to the Participant on account of an Unforeseeable Emergency; or*
- (D) The date the Participant requests a voluntary in-service de minimis distribution from the Plan.*

(2) Distribution Due to Unforeseeable Emergency. A Participant may request a distribution due to Unforeseeable Emergency by submitting a request to the Board (or its designee). The Board (or its designee) shall have the authority to require such evidence as it deems necessary to determine whether a distribution is warranted. If an application for a hardship distribution due to an Unforeseeable Emergency is approved, the distribution is limited to an amount sufficient to meet the Unforeseeable Emergency. The allowed distribution shall be paid in a single sum to the Participant as soon as possible after approval of such distribution.

(3) Voluntary In-Service De Minimis Distribution. A Participant who is an active Employee shall receive a distribution of his or her Account if the following requirements are met:

- (A) The Participant's Account balance does not exceed five thousand dollars (\$5,000) (or the dollar limit under section 411(a)(11) of the Code, if greater);*
- (B) The Participant has not previously received an in-service distribution of his or her Account balance;*
- (C) The Participant has not made Deferrals during the two (2)-year period ending on the date of the in-service distribution; and*
- (D) The Participant elects to receive the distribution.*

(4) Commencement of Distributions.

(A) General Rule. Distribution of a Participant's Account under the Plan shall be made in the form elected by the Participant, commencing as soon as administratively feasible after the calendar year quarter in which the Participant's Separation from Service occurs, unless the Participant elects to defer this payment. A Participant may elect that the distribution of benefits be made at any time following his or her Separation from Service as long as distributions commence no later than sixty (60) days following the close of the calendar year in which the Participant attains age seventy and one-half (70 1/2), or retires, if later.

(B) Notwithstanding subsection (4)(A), if the value of a Participant's Account is one thousand dollars (\$1,000) or less, then his or her benefit under the Plan shall be distributed to him or her in a single sum as soon as administratively feasible following his or her Separation from Service.

(C) Employees who terminate employment and then resume employment with an Employer within thirty (30) days will not forfeit their prior service and will not be required to receive a refund of their payroll contributions.

(5) Payment Options. A Participant's or Beneficiary's election of a payment option must be made at least thirty (30) days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in a single lump sum. Once payments have commenced, the form of payment option may not be changed.

(6) Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one (1) of the following payment options:

- (A) A single lump-sum payment;*
- (B) Installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) which extends no longer than the life expectancy of the Participant;*
- (C) Partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in subsection (6)(B), as long as such installment payments begin prior to the end of the calendar year following the year the partial lump-sum payment was made; and*
- (D) Annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary if permitted under sections 401(a)(9) or 457(d) of the Code. If the Participant fails to make a timely election of one (1) of the payment options described above, payment shall be made in a single sum.*

(7) Direct Rollover Option.

(A) After December 31, 2001, a distributee may elect to have an eligible rollover distribution paid directly to a single eligible retirement plan specified by the distributee. However, this election may not be made if the total eligible rollover distributions paid to the distributee from the Plan will be less than two hundred dollars (\$200).

(B) A distributee may elect to divide an eligible rollover distribution so that part is paid directly to an eligible retirement plan and part is paid to the distributee. However, the part paid directly to the eligible retirement plan must total at least five hundred dollars (\$500).

(C) A distributee may elect a direct rollover after having received a written notice which complies with the rules of Code section 402(f). In general, payment to a distributee shall not begin until thirty (30) days after the section 402(f) notice is given. However, payment may be made sooner if the notice clearly informs the distributee of the right to a period of at least thirty (30) days to consider the decision of whether or not to make a direct rollover, and the distributee, after receiving the notice, makes an affirmative election to receive an immediate distribution. A distributee who fails to make an election in the thirty (30)-day period shall receive the eligible rollover distribution immediately after the thirty (30)-day period expires.

(D) For purposes of this section (7), the following terms have the meanings set forth below:

1. An "eligible rollover distribution" is any distribution or withdrawal payable under the terms of this Plan to a Participant or a Participant's Beneficiary, which is described in Code section 402(c)(4). In general, this term includes any single-sum distribution, and any distribution which is one (1) in a series of substantially equal periodic payments made

over a period of less than ten (10) years, and is less than the distributee's life expectancy. However, an eligible rollover distribution does not include the portion of any distribution which constitutes a minimum required distribution under Code section 401(a)(9) or any distribution due to unforeseeable emergency;

2. "Eligible retirement plan" means—

A. An individual retirement account described in Code section 408(a);

B. An individual retirement annuity described in Code section 408(b);

C. An annuity plan described in Code section 403(a);

D. A retirement plan qualified under Code section 401(a), but only if the terms of the plan permit the acceptance of rollover distributions;

E. An annuity contract described in Code section 403(b);

F. An eligible deferred compensation plan under Code section 457(b) which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; and

G. Effective January 1, 2008, a Roth IRA described under Code section 408A to the extent permitted by applicable law; and

3. "Distributee" means a Participant or the spouse of a deceased Participant. Effective January 1, 2007, a Participant's designated non-spouse Beneficiary may be a distributee but only with respect to an eligible retirement plan described in subparagraphs (7)(D)2.A. and B. above.

(8) This Plan also shall accept the transfer of amounts previously deferred by a Participant under another eligible deferred compensation plan described in section 457 of the Code or, effective January 1, 2002, an eligible rollover distribution described in section 457(e)(16) of the Code.

(9) All distributions under this rule 16 CSR 50-20.070 shall be made in accordance with a reasonable and good faith interpretation of the requirements of Code sections 457(d)(2) and 401(a)(9).

[[10]](1) Lost Participants. Notwithstanding any other provision of the Plan, if it is not possible to make payment because the Board cannot locate the Participant after making reasonable efforts to so do, a retroactive payment may be made as soon as administratively feasible after the date on which the Participant is located.

(A) If the Board is unable to locate any person entitled to receive distribution from an Account hereunder, such Account shall be forfeited and used to reduce Plan expenses on the date two (2) years after the date the Board sends, by certified mail, a notice concerning the benefits to such person at his or her last known address (or determines that there is no last known address).

(B) If an Account is forfeited under this Section and a person otherwise entitled to the Account subsequently files a claim with the Board during any Plan Year, before any allocations for such Plan Year are made, the Account will be restored to the amount which was forfeited without regard to any earnings or losses that would have been allocated. Such restoration shall first be taken out of forfeitures which have not been allocated and if such forfeitures are insufficient to restore such person's account balance, restoration shall be made by an Employer contribution to the Plan.

AUTHORITY: section 50.1300, RSMo [2000] 2016. Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed April 25, 2002, effective Nov. 30, 2002. Amended: Filed June 7, 2006, effective Jan. 30, 2007. Amended: Filed Jan. 25, 2010, effective July 30, 2010. Amended: Filed July 2, 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 County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. 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 50—The County Employees' Retirement Fund Chapter 20—County Employees' Deferred Compensation Plan

PROPOSED AMENDMENT

16 CSR 50-20.120 Additional Provisions. The board of directors of the County Employees' Retirement Fund is amending subsections (4)(A), (B), (C), and (K).

PURPOSE: This amendment lowers the age at which participants may elect to receive a distribution to age 59 1/2 pursuant to the provisions of the Bipartisan American Miners Act of 2019 and adds provisions to consolidate the provisions of 16 CSR 50-20.070 with the rule.

(4) Benefit distributions shall be in accordance with the following:

(A) Benefit Distributions at Age *[seventy and one-half (70 1/2)] fifty-nine and one-half (59 1/2)*, Retirement or Other Severance from Employment. Upon attainment of age *[seventy and one-half (70 1/2)] fifty-nine and one-half (59 1/2)*, retirement, or other Severance from Employment (other than due to death), a Participant is entitled to receive a distribution of his or her Account Balance under any form of distribution permitted under subsection (4)(C) commencing at the date elected under subsection (4)(B). If a Participant does not elect otherwise, the distribution shall be paid as soon as practicable following Normal Retirement Age or, if later, following retirement or other Severance from Employment and payment shall be made in a lump sum;

(B) Election of Benefit Commencement Date. A Participant may elect to commence distribution of benefits at any time after attainment of age *[seventy and one-half (70 1/2)] fifty-nine and one-half (59 1/2)*, retirement, or other Severance from Employment by a notice filed at least **thirty (30)** days before the date on which benefits are to commence. However, in no event may distribution of benefits commence later than the date described in subsection (4)(H);

(C) Forms of Distribution. In an election to commence benefits under subsection (4)(B), a Participant *[entitled to a distribution of benefits under this section (4)]* may, **subject to applicable law and the other provisions of the plan**, elect to receive payment in *[such forms of distribution described in the Plan]* **accordance with one (1) of the following payment options**, to the extent *[the material terms and conditions for those forms are set forth in the Plan and the additional forms of payment satisfy]* **consistent with** a reasonable and good faith interpretation of the requirements of section 401(a)(9) of the Code *[and]*, subsection (4)(H) below, and *[are]* not inconsistent with this section (4);/:

1. A single lump-sum payment;

2. Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis) which extends no longer than the life expectancy of the Participant;

3. Partial lump-sum payment of a designated amount, with

the balance payable in installment payments for a period of years, as described in paragraph (4)(C)2., as long as such installment payments begin prior to the end of the calendar year following the year the partial lump-sum payment was made; and

4. Annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary if permitted under sections 401(a)(9) or 457(d) of the Code.

If the Participant fails to make a timely election of one (1) of the payment options described above, payment shall be made in a single sum.

(K) Rollover Distributions.

1. A distributee who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this subsection (4)(K), an eligible rollover distribution means any distribution of all or any portion of a Participant's Account Balance, determined in accordance with applicable law and the terms of the Plan, except that an eligible rollover distribution does not include—

A. Any installment payment under subsection (4)(C) for a period of ten (10) years or more;

B. Any distribution made under subsection (4)(I) as a result of an unforeseeable emergency; or

C. For any other distribution, the portion, if any, of the distribution under section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, an eligible government plan described in section 457(b) of the Code, that accepts the eligible rollover distribution, or, effective January 1, 2008, a Roth IRA described under section 408A of the Code, to the extent permitted by applicable law.

3. A "distributee" means a Participant or the spouse of a deceased Participant. Effective January 1, 2007, a Participant's designated non-spouse Beneficiary may be a distributee but only with respect to an eligible retirement plan [described in subparagraphs 16 CSR 50-20.070(7)(D)2.A. and B.] that is an individual retirement account described in Code section 408(a) or an individual retirement annuity described in Code section 408(b).

AUTHORITY: section 50.1300, RSMo 2016. Original rule filed Nov. 10, 2005, effective May 30, 2006. For intervening history, please consult the Code of State Regulations. Amended: Filed July 2, 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 County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. 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 35—Hospices

PROPOSED AMENDMENT

19 CSR 30-35.010 Hospice Program Operations. The department is amending section (1).

PURPOSE: This amendment adds advanced practice registered nurses and physician assistants as people who will qualify as an attending physician to hospice patients in that these individuals will have the most significant role in the determination and delivery of the hospice patient's medical care. This amendment is made in accordance with a change to the federal law. This amendment also extends the amount of time hospice providers can conduct emergent visits from one (1) hour to ninety (90) minutes from when the need is identified.

(1) General Provisions.

(A) Definitions Relating to Hospice Care Agencies.

1. Attending physician—a person who—

A. Is licensed as a doctor of medicine or osteopathy in this state or a bordering state; *[and]* or

B. Is recognized by Missouri as a nurse practitioner and who complies with the requirements of Chapter 335, RSMo, 20 CSR 2200-4.200 and 42 CFR 410.75; or

C. Is licensed as a physician assistant (PA) in Missouri and who complies with the requirements in Chapter 334, RSMo, 20 CSR 2150-7.135 and 42 CFR 410.74(c); and

[B./D.] Is identified by the patient, at the time s/he elects to receive hospice care, as having the most significant role in the determination and delivery of the patient's medical care.

2. Automated dispensing system—a mechanical system that performs functions that may include, but are not limited to, storing, packaging or dispensing medications, and that collects, controls, and maintains all transaction information.

3. Certified medication technician—a person who has completed the certified medication technician training program approved by the Department of Health and Senior Services.

4. Certified pharmacy technician—a person who is credentialed by a nationally recognized pharmacy technician credentialing authority.

5. Contracted provider—individuals or entities who furnish services to hospice patients under contractual arrangements between the hospice and the contracted provider.

6. Coordinating provider—any individual or agency which independently provides services to the patient in their place of residence.

7. Dietary counselor—an individual that is currently eligible to be licensed as a dietitian in Missouri or recognized as a nutritionist.

8. Direct employee—an individual paid directly by the hospice.

9. Emergency medication supply—a limited number of prescription medications approved by the medical director and the pharmacist that may be administered to a patient in an emergency situation or for initial doses of a necessary medication when a pharmacist cannot provide medication services for a patient within a reasonable time based on the patient's clinical needs at the time.

10. Employee—an employee of the hospice or an individual under contract who is appropriately trained and assigned to the hospice program. Employee also refers to a person volunteering for the hospice program.

11. Family—broadly defined to include not only persons bound by biology or legalities but also those who function for the patient in a familial way.

12. Homemaker—a home health aide, volunteer, or other individual who assists the patient/family with light housekeeping chores.

13. Home health aide—a person who meets the training, attitude, and skill requirements specified in the Medicare home health program (42 CFR 484.36).

14. Hospice—a public agency or private organization or subdivision of either that/—

A. Is primarily engaged in providing care to dying persons and their families; and

B. Meets the standards specified in 19 CSR 30-35.010 and in 19 CSR 30-35.030. If it is a hospice that provides inpatient care

directly in a hospice facility, it must also meet the standards of 19 CSR 30-35.020.

15. Hospice administrator—the employee designated by the governing body as responsible for the overall functioning of the hospice.

16. Hospice patient—a person with a terminal illness or condition for whom the focus of care is on comfort and palliation rather than cure.

17. Legal representative—a person who because of the patient's mental or physical incapacity is legally authorized in accordance with state law to make health care decisions on behalf of the dying person.

18. Licensed practical nurse—a person licensed under Chapter 335, RSMo to engage in the practice of practical nursing.

19. Meal preparation—meals planned, offered, or served to all patients from prepared menus.

20. Medical director—a person licensed in this state or a bordering state as a doctor of medicine or osteopathy who assumes overall responsibility for the medical component of the hospice's patient care program.

21. Nutritionist—a person who has graduated from an accredited four- (4-)/- year college with a bachelor's degree including or supplemented by at least fifteen (15) semester hours in food and nutrition including at least one (1) course in diet therapy.

22. Occupational therapist—a person who is registered under Chapter 334, RSMo as an occupational therapist and licensed to practice in Missouri.

23. Occupational therapy assistant—a person who has graduated from an occupational therapy assistant program accredited by the Accreditation Council for Occupational Therapy Education and licensed to practice in Missouri.

24. Pharmacist—a person licensed as a pharmacist under Chapter 338, RSMo.

25. Pharmacy technician—a person who is registered as a pharmacy technician under Chapter 338, RSMo.

26. Physical therapist—a person who is licensed as a physical therapist under Chapter 334, RSMo.

27. Physical therapy assistant—a person who has graduated from at least a two- (2-)/- year college level program accredited by the American Physical Therapy Association and licensed to practice in Missouri.

28. Physician—a physician as defined in subparagraph (1)(A)1.A. of this rule.

29. Registered nurse—a person licensed under Chapter 335, RSMo to engage in the practice of professional nursing.

30. Registered nurse coordinator—a registered nurse, who is a direct employee, designated by the hospice to direct the overall provisions of clinical services.

31. Satellite/branch office—a location or site from which a hospice provides services within a portion of the total geographic area served by the parent hospice and the area served by the satellite/branch office is contiguous to or part of the area served by the parent hospice.

32. Skilled nursing—those services which are required by law to be provided by a registered nurse or a licensed practical nurse.

33. Snack—a single meal or item prepared on demand which does not include food items that produce grease-laden vapors.

34. Social worker—a person who has at least a bachelor's degree in social work from a school of social work accredited by the Council on Social Work Education.

35. Speech language pathologist—a person who is licensed under Chapter 345, RSMo as a speech therapist.

36. Spiritual counselor—a person who is ordained, commissioned, or credentialed according to the practices of an organized religious group and has completed, or will complete by August 1, 2003, one (1) unit of Clinical Pastoral Education (CPE); or has a minimum of a bachelor's degree with emphasis in counseling or related subjects and has, within ninety (90) days of hire, completed specific training to include: common spiritual issues in death and

dying; belief systems of comparative religions related to death and dying; spiritual assessment skills; individualizing care to patient beliefs; and varied spiritual practices/rituals.

37. Standing order—An order by an authorized prescriber that can be implemented by other health care professionals when predetermined criteria are met as per 19 CSR 30-35.010(2)(E)3.–(2)(E)4.A., B. and C.

(C) Consent for Hospice Care.

1. A patient who wishes to receive hospice care, shall sign a consent form for hospice services.

2. The consent form shall include the following:

A. Identification of the particular hospice that will provide care to the patient;

B. The patient's or representative's acknowledgment that s/he has been advised and has an understanding of the palliative nature of hospice care as it relates to the patient's terminal illness;

C. The specific type of care and services that may be provided as hospice care during the course of the illness.

(E) General Provisions.

1. A hospice shall maintain compliance with the standards in 19 CSR 30-35.010 and in 19 CSR 30-35.030. A hospice that operates a facility for hospice care shall also maintain compliance with 19 CSR 30-35.020.

2. A hospice shall be primarily engaged in providing the care and services described in 19 CSR 30-35.010 and in 19 CSR 30-35.020 of this rule, and shall:/—

A. Provide **twenty-four-** (24-) hour nursing coverage for telephone consultation and visits as needed;

B. Assure all other services that are reasonable and necessary for the palliation and management of terminal illness and related conditions are available on a **twenty-four-** (24-) hour basis;

C. Provide bereavement counseling; and

D. Assure services are provided in a manner consistent with accepted standards of practice in accordance with local, state, and federal law.

3. The hospice shall conduct criminal background checks in accordance with state law.

4. The hospice shall adhere to state and federal law relating to advance directives.

(F) Patient Rights. The hospice shall have a written statement of patient rights which shall include, but need not be limited to, those specified herein./:

1. Each patient of a hospice program shall be informed in writing of his/her rights as recipients of hospice services./;

2. The hospice shall document that it has informed patients of their rights in writing and shall protect and promote the exercise of these rights./; **and**

3. The patient's family, representative, or guardian may exercise the patient's rights when all reasonable efforts to communicate with the patient have failed. These rights shall include:

A. The patient and family's right for respect of property and person;

B. The right to voice grievances regarding treatment or care that is, or fails to be, furnished or regarding lack of respect of property by anyone who is furnishing services on behalf of the hospice and the patient/family shall not be subjected to discrimination or reprisal for doing so;

C. The right to be informed about his/her care alternatives available from the hospice and payment resources;

D. The right to participate in the development of the plan of care and planning changes in the care;

E. The right to be informed in advance about the care to be furnished;

F. The right to be informed in advance of the disciplines that will furnish care and the frequency of visits proposed to be furnished;

G. The right to be informed in advance of any change in the plan of care before the change is made;

H. The right to confidentiality of the clinical records maintained by the hospice and to be informed of the hospice's policy for disclosure of clinical records;

I. The right to be informed in writing of the extent to which payment may be required from the patient and any changes in liability within **thirty** (30) days of the hospice becoming aware of the new amount of the liability; and

J. The right to access the Missouri home health and hospice toll-free hotline and to be informed of its telephone number, the hours of operations and its purpose for the receipt of complaints and questions regarding hospice services.

(H) **Twenty-four-** (24-) Hour Response.

1. The hospice shall have written policies and procedures defining access to all services, medications, equipment, and supplies during regular business hours, after hours and in emergency situations including a plan for prompt telephone response.

2. Unscheduled non-emergent nursing visits when indicated should normally occur within three (3) hours from the time the need is identified or as agreed upon by the hospice and patient.

3. When clinically indicated, emergent visits shall be made within *[one hour]* **ninety (90) minutes** from the time the need is identified.

(J) Safety and Emergency Preparedness.

1. The hospice shall have safety and emergency preparedness plans that conform with federal, state, and local requirements. Such plans shall include:

A. A plan for reporting, monitoring and following up on all accidents, injuries and safety hazards;

B. Documentation of monitoring activity and follow-up actions; and

C. A safe and sanitary system for identifying, handling and disposing of hazardous wastes.

[D.]2. The emergency preparedness plan shall be rehearsed at least annually.

(K) Satellite/Branch Offices.

1. If the hospice represents to the public that they have a satellite/branch office, there shall be:

A. A designated interdisciplinary group with documented group meetings;

B. On-site maintenance of current active patient records; and

C. Telephone reception during normal business hours.

2. The satellite office must be located within **one hundred** (100) miles of the parent office.

3. The standard of care and clinical services shall be the same out of the satellite/branch office as the parent office.

AUTHORITY: section 197.270, RSMo [2000] 2016 [and section 660.050, RSMo Supp. 2007]. Original rule filed March 8, 1996, effective Oct. 30, 1996. Rescinded and readopted: Filed Jan. 3, 2001, effective Aug. 30, 2001. Amended: Filed Sept. 11, 2007, effective March 30, 2008. Amended: Filed July 9, 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 Lisa Coots, Administrator, Bureau of Home Care and Rehabilitative Standards, Department of Health and Senior Services, Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102 or at Lisa.Coots@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 2120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.020 Biennial License Renewal. The board is deleting sections (1), (2), (5), and (6), adding new section (1), renumbering as necessary, and amending the purpose and new section (2).

PURPOSE: This amendment is to provide updated information relating to renewal deadlines and include license professions not previously referenced.

PURPOSE: This rule outlines the requirements and procedures for the renewal of embalmer[']s, funeral director[']s, funeral directors limited, and funeral establishment[']s [licenses].

[(1) Each Missouri licensed embalmer or Missouri licensed funeral director shall notify the board within thirty (30) days of each address change of the Missouri licensed funeral establishment at which s/he is practicing and shall notify the board within thirty (30) days of any termination or creation of an employment relationship with a Missouri licensed funeral establishment. Each holder of a Missouri funeral establishment license shall notify the board at least sixty (60) days prior to any change of address of the Missouri licensed funeral establishment, sale of the Missouri licensed funeral establishment or termination of business of the Missouri licensed funeral establishment.

(2) A nonrenewable license, not valid for active practice in Missouri, will be issued at no charge to a currently licensed embalmer, funeral director, or both, upon presentation of a signed notarized statement from the licensee attesting to the fact that the licensee is disabled and is no longer active in the practice of embalming, funeral directing, or both. If the licensee desires at some future date to return to active practice in Missouri, the board shall issue a valid renewal license upon payment of the current renewal fee and completion of the applicable renewal application form.]

(1) The biennial license renewal date for licensed embalmers, licensed funeral directors, and licensed funeral director limited is June 1. The biennial license renewal date for licensed funeral establishments is January 1.

[(3)](2) [The holders of expired Missouri embalmer's and funeral director's licenses] Embalmers, funeral directors, funeral director limited, and funeral establishment licenses which are not renewed will be notified that their licenses have expired. The holder of an expired license [shall be issued a new license by the board] may reinstate the license within two (2) years of the renewal date after the proper [reactivation] forms have been completed and applicable fees have been paid. Any [Missouri] embalmer[s, license and Missouri] funeral director[s], and funeral establishment license not renewed within two (2) years shall be void.

[(4)](3) The licensee's failure to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his/her license.

[(5) The biennial license renewal date for Missouri licensed embalmers and Missouri licensed funeral directors shall be designated as June 1. The biennial license renewal date for

Missouri licensed funeral establishments shall be designated as January 1.

(6) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.]

AUTHORITY: sections 333.081, RSMo Supp. 2003] and 333.III.1, RSMo [2000] 2016. This rule originally filed as 4 CSR 120-2.020. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed July 6, 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 State Board of Embalmers and Funeral Directors, Lori Hayes, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 2120—State Board of Embalmers and Funeral
Directors
Chapter 2—General Rules**

PROPOSED RULE

20 CSR 2120-2.021 Inactive License

PURPOSE: This rule outlines the process of requesting inactive status to maintain a license for an embalmer, funeral director, funeral director limited, and preneed agent.

(1) Any embalmer, funeral director, funeral director limited, or preneed agent that holds a current unexpired license/registration may place that license/registration on inactive status by filing a written and signed request for inactive status with the board. This request may be accomplished by signing the request for inactive status which appears on the application for renewal and returning that application to the board prior to the date the license expires.

(2) The licensee/registrant shall not practice in the state of Missouri while the license is inactive.

(3) Each inactive licensee/registrant shall provide the board, at the time of application for renewal, a completed renewal form issued by the board that shall contain updated information since the preceding application/renewal period and the applicable fee. Failure to receive renewal notice shall not relieve the licensee/registrant of the obligation to renew and pay the inactive renewal fee prior to the expiration date.

(4) If an inactive licensee/registrant wishes to return a license/regis-

tration to active status the licensee/registrant shall complete the renewal form and pay the renewal fee as stated in the rules promulgated by the board.

AUTHORITY: sections 324.039 and 333.III, RSMo 2016. Original rule filed July 6, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Embalmers and Funeral Directors, Lori Hayes, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 2120—State Board of Embalmers and Funeral
Directors
Chapter 2—General Rules
PROPOSED AMENDMENT**

20 CSR 2120-2.100 Fees. The board is amending section (1) and deleting section (3).

PURPOSE: This amendment clarifies the fees for each licensed profession and adds an inactive renewal fee.

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

(C) Embalmer Biennial Renewal Fee	\$150
[1. Effective March 1, 2018 through June 20, 2018	\$ 5]
(D) Funeral Director Application Fee— Apprentice, Education, Reciprocity, Limited	\$150
(E) Funeral Director and Funeral Director Limited Biennial Renewal Fee	\$150
[1. Effective March 1, 2018 through June 20, 2018	\$ 5]
(F) Reactivation Fee—Funeral Director, Funeral Director Limited, Embalmer, Establishment [Reactivation Fee]	
(day 1 to day 365 after date license lapsed)	\$100
(G) Reactivation Fee—Funeral Director, Funeral Director Limited, Embalmer, Establishment [Reactivation Fee]	
(day 366 to day 730 after date license lapsed)	\$200
(H) Inactive Renewal Fee—Embalmer, Funeral Director, Funeral Director Limited, and Preneed Agent	\$ 25
[[H]](I) Establishment Application Fee	\$250
[[I]](J) Amended Establishment Application Fee	\$ 25
[[J]](K) Establishment Biennial Renewal Fee	\$200
[1. Effective October 1, 2017 through January 31, 2018	\$ 5]
[[K]](L) Reciprocity Certification Fee	\$ 10
[[L]](M) Duplicate Wallhanging Fee	\$ 10
[[M]](N) Collection Fee for Bad Checks	\$ 25
[[N]](O) Law Book Requests	\$ 5

[(O)](P) Background Check Fee (amount determined by the Missouri State Highway Patrol)	
[(P)](Q) Provider License Application Fee (if no Funeral Establishment license)	\$200
[(O)](R) Provider License Application Fee (if also Funeral Establishment license)	\$100
[(R)](S) Provider Annual Renewal Fee	\$ 0
[(S)](T) Provider Delinquent Renewal Fee— (day 1 to day 365 after date license lapsed)	\$100
[(T)](U) Provider Delinquent Renewal Fee— (day 366 to day 730 after date license lapsed)	\$200
[(U)](V) Seller License Application Fee	\$200
[(V)](W) Seller Annual Renewal Fee	\$150
[(1. Effective August 1, 2017 through November 30, 2017)	\$ 5]
[(W)](X) Seller Delinquent Renewal Fee— (day 1 to day 365 after date license lapsed)	\$200
[(X)](Y) Seller Delinquent Renewal Fee— (day 366 to day 730 after date license lapsed)	\$400
[(Y)](Z) Preneed Agent Registration Fee	\$ 40
[(Z)](AA) Preneed Agent Annual Registration Renewal Fee	\$ 40
[(1. Effective September 1, 2017 through December 31, 2017)	\$ 5]
[(AA)](BB) Preneed Agent Delinquent Renewal Fee—(day 1 to day 365 after date license lapsed)	\$ 50
[(BB)](CC) Preneed Agent Delinquent Renewal Fee—(day 366 to day 730 after date license lapsed)	\$100
[(CC)](DD) Seller per Contract Annual Reporting Fee (for contracts executed on or after September 1, 2015)	\$ 25
[(DD)](EE) Amended Provider Application Fee	\$ 25
[(EE)](FF) Amended Seller Application Fee	\$ 25

Board of Embalmers and Funeral Directors, Lori Hayes, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

[(3) The provisions of this rule are severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force, unless otherwise determined by a court of competent jurisdiction.]

AUTHORITY: sections 333.111.1 and 333.340, RSMo 2016. This rule originally filed as 4 CSR 120-2.100. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed July 6, 2020.

PUBLIC COST: This proposed amendment will increase revenue for the State Board of Embalmers and Funeral Directors by three thousand eight hundred dollars (\$3,800) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities three thousand eight hundred dollars (\$3,800) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

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

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Commerce and Insurance
Division 2120 - State Board of Embalmers and Funeral Directors
Chapter 2 - General Rules
Proposed Amendment to 20 CSR 2120-2.100 Fees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Revenue	
State Board of Embalmers and Funeral Directors	\$3,800	
	Estimated Increased Revenue Beginning in FY20 and Continuing Biennially	\$3,800

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The estimated revenue is based on the costs reflected in the Private Entity Fiscal Note filed with this amendment.

PRIVATE FISCAL NOTE

I. RULE NUMBER

**Title 20 -Department of Commerce and Insurance
Division 2120 - State Board of Embalmers and Funeral Directors
Chapter 2 - General Rules
Proposed Amendment to 20 CSR 2120-2.100 Fees**

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated costs for the life of the rule by affected entities:
4	Application Fee - Reciprocity (Fee @ \$150)	\$600
50	Inactive Renewal Fee (Fee @ \$25)	\$1,250
5	Biennial Renewal - Establishments (Renewal Fee @ \$200)	\$1,000
3	Biennial Renewal - Establishments (Late Renewal Fee First Year @ \$100)	\$300
2	Biennial Renewal - Establishments (Late Renewal Fee Second Year @ \$200)	\$400
2	Biennial Renewal - Funeral Directors Limited (Renewal Fee @ \$200)	\$400
1	Biennial Renewal - Funeral Directors Limited (Late Renewal Fee First Year @ \$100)	\$100
1	Biennial Renewal - Funeral Directors Limited (Late Renewal Fee Second Year @ \$200)	\$200
3	Biennial Renewal Fee (Military Fee Waiver @ \$150)	(\$450)
Estimated Cost of Compliance Beginning in FY21 and Continuing Biennially for the Life of the Rule		\$3,800

III. WORKSHEET

See Table Above

IV. ASSUMPTIONS

1. The above figures are based on FY21 projections.
2. The board anticipates 4 reciprocity applicants will reapply after 2 years biennially under 20 CSR 2120-2.040.
3. Approximately 5 establishments and 2 funeral directors limited renew late every other year under 20 CSR 2120-2.020. In addition to the \$200 biennial renewal fee, establishments would pay \$100 during the first year or \$200 during the second year after their license has expired.
4. The board anticipates fifty licensees biennially will pay the inactive renewal fee under 20 CSR 2120-2.021.
5. Under 20 CSR 2120-2.220 the board anticipates that there will be very few active military will request to renew without payment while on active duty. It is estimated that the board will have approximately 3 applicants biennially.
6. It is anticipated that the total fiscal costs will occur beginning in FY21, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight

Note: The committee is statutorily obligated to enforce and administer the provisions of sections 333.011 to 333.340, RSMo. Pursuant to section 333.111, RSMo, the committee shall by rule and regulation set the amount of fees authorized by sections 333.011 to 333.340, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions of sections 333.011 to 333.340,

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE**

**Division 2120—State Board of Embalmers and Funeral
Directors**

Chapter 2—General Rules

PROPOSED RULE

20 CSR 2120-2.220 Renewal of Licenses for Military Members

PURPOSE: This rule sets forth the procedure for renewal of a license held by a licensee on active military duty and for discipline of a license held by a licensee on active military duty.

(1) Any licensee who is a member of the United States Armed Forces or any military or militia of the state of Missouri, as defined in section 41.030, RSMo, shall be exempt from the requirement to renew his or her license if:

(A) The licensee is on active duty, meaning full time duty in the active military service of the United States as defined in Section 101(a)(5), Title 10 of the U.S. Code or of the active military forces of Missouri under section 41.030, RSMo;

(B) At the time of activation, the licensee held a current and active license with the board in Missouri and was licensed or certified to engage in his or her profession in this state; and

(C) The licensee complies with the provisions of this rule to notify the board of the active military duty.

(2) While a licensee meeting the requirements of this rule is on active duty, as set forth above, each license of the licensee will be renewed without payment of renewal fees or any other act required for renewal while the licensee is on active military duty and up to two (2) years from the date the licensee ceases active military duty, if the following criteria are met:

(A) The licensee notifies the board in writing on a form provided by the board or by other written communication accepted by the board as a Notice of Active Military Duty and requests license renewal;

(B) This written Notice of Active Military Duty shall be signed and dated by the licensee and contain the name, address, and license number of the licensee, the date of activation, and be accompanied by a copy of the licensee's active duty orders or other evidence sufficient for the board to determine the dates of active service by licensee;

(C) If the licensee requests waiver of any continuing education requirement, this request may be made at the time the Notice of Active Military Duty is filed. The Notice of Active Military Duty may be filed with the board at any time up to one hundred eighty (180) days from the date the licensee ceases active military duty;

(D) If any of licensee's licenses have lapsed for non-renewal during this period before the Notice of Active Military Duty has been filed, all licenses will be reinstated upon the filing of the Notice of Active Military Duty with no additional requirements for reinstatement. All such reinstatements are retroactive to the last renewal date after the licensee went on active duty and the license is deemed as having been active from that date until the license is reinstated;

(E) If licensee files the Notice of Active Military Duty prior to a license renewal date, the board will renew all licenses, without any further requirement, until either the licensee notifies the board that active military duty has ceased or a license has not been renewed for a period of one hundred eighty (180) days from the date the active military duty ceased. The licensee shall have the duty to notify the board when his or her active military duty ceases within one hundred eighty (180) days from the date the active duty ceases. The board will deem licensee's license current and active until the end of the one hundred eighty (180) days and after that time, the licensee's license shall be due for renewal at the next license regular renewal date; and

(F) The licensee on active military duty shall not be required to

pay any license renewal fees during the period of active military duty and up to one hundred eighty (180) days after the end of the active military duty. If a license lapses at any time during active military duty, that license will be reinstated with no further requirements, other than the filing of the Notice of Active Military Service.

(3) If, at the time of activation, licensee's license was subject to discipline, the disciplinary period shall be stayed during the time of licensee's active duty military service and reinstated at the time the license is reinstated. However, if the conditions of the discipline require the licensee to take any action or meet any obligations, licensee shall have at least one hundred eighty (180) days after the end of active military duty to take those actions or fulfill those obligations.

(4) If during the time licensee is on active military duty, the board desires to pursue any disciplinary or administrative action against any license of the licensee, the board shall stay any such action until at least sixty (60) days after the end of the active military duty.

(5) Any licensee who holds a current license and is a member of any United States or state of Missouri military, including any reserve members and any member of the United States Public Health Service, who is engaged in the active duty in the military service of the United States or the state of Missouri and who is engaged in the performance of active duty in the military service of the United States in a military conflict in which reserve components have been called to active duty for any period of more than thirty (30) days and who have had any license lapse while performing this military service, may renew/reinstate such license, without penalty by—

(A) Filing with the board a Notice of Active Military Duty on a form provided by the board or by written communication accepted by the board that is signed and dated by the licensee and contains the licensee's name, address, the type of license and license number of the licensee, the date of active duty activation, and is accompanied by a copy of the licensee's active duty orders or other evidence sufficient for the board to determine the dates of active military duty by licensee; and

(B) Such Notice of Active Military Duty shall be filed with the board along with the request for license reinstatement no later than sixty (60) days after the end of active military duty.

(6) Upon filing the Notice of Active Military Duty, the board will reinstate licensee's license with no further requirements, retroactive to the last renewal.

AUTHORITY: sections 41.950, 192.360, 333.081, 333.111, and 333.340, RSMo 2016. Original rule filed July 6, 2020.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Embalmers and Funeral Directors, Lori Hayes, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE**
**Division 2120—State Board of Embalmers and Funeral
Directors**
Chapter 3—Preneed

PROPOSED RESCISSION

20 CSR 2120-3.105 Filing of Annual Reports. This rule prescribed the board's process for the filing of annual reports under the revised sections of Chapters 333 and 436, RSMo.

PURPOSE: The rule is being rescinded so that a readoption can be filed that provides updated terminology and processes consistent with statutory language.

AUTHORITY: sections 333.315, 333.320, 333.340, 436.460, and 436.520, RSMo Supp. 2009. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010. Rescinded: Filed July 6, 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 State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE**
**Division 2120—State Board of Embalmers and Funeral
Directors**
Chapter 3—Preneed

PROPOSED RULE

20 CSR 2120-3.105 Filing of Annual Reports and License Renewal

PURPOSE: This rule prescribes the board's process for the filing of annual reports and license renewal under Chapter 333 and sections 436.400 to 436.525, RSMo.

(1) The annual renewal date for licensed preneed sellers and preneed providers is November 1. The annual renewal date for registered preneed agents is December 1.

(2) For sellers—

(A) Each preneed seller shall file a completed renewal and all applicable fees on or before October 31 each year. If the license is not renewed by this date the license shall expire;

(B) Each preneed seller shall file a completed annual report before October 31 each year. If the report is not filed the license shall be automatically suspended until the time the completed annual report is filed and all applicable fees have been paid;

(C) The seller's report must contain the following, if applicable:

1. The number of preneed contracts sold in the reporting year (including those written that were cancelled, fulfilled, transferred, or serviced in the same reporting year);

2. If a consumer has more than one (1) preneed contract with different preneed sellers the contract should be identified on the annual report and the per contract fee is required for each preneed contract; and

3. If a consumer has one (1) preneed contract with multiple funding sources the contract should be identified on the annual report and one (1) per contract fee is to be submitted;

(D) For the seller annual report, if the seller is unable to validate the status and face value of the insurance policy and unable to obtain the certification from the insurance company, the following information will meet the requirements of section 436.460.4, RSMo, for the reporting requirements for insurance funded preneed contracts:

1. The name and address of the company issuing the policy or annuity funding the preneed;

2. The amount of the policy or balance on account at the time the preneed contract was sold; and

3. An attestation from the seller that since these accounts are funded by insurance, the seller has no ability to confirm the existence or amount of the policies or accounts;

(E) If the license is suspended the applicant must file the annual report and renewal and pay the delinquent fee established by the board before the license is issued; and

(F) If the license is not current the licensee shall not act as a preneed seller in any capacity, such as maintaining an active trust account or paying providers for fulfilled preneed contracts.

(3) For providers—

(A) Each preneed provider shall file a completed annual report on or before October 31 each year. If the license is not renewed by this date the license shall expire;

(B) If the license is not current the licensee shall not act as a preneed provider in any capacity, such as servicing preneed contracts or being named as a provider on such.

(4) For agents—

(A) Each preneed agent shall file a completed renewal and pay the applicable fees on or before November 30 each year. If the registration is not renewed by this date the license shall expire.

(5) The holders of expired Missouri licenses for preneed providers, preneed sellers, and registrations for agents which are not renewed will be notified that their licenses or registrations have expired. The holder of an expired license or registration may reinstate the license or registration within two (2) years of the renewal date after the proper forms have been completed and applicable fees have been paid. Any license or registration that has not been renewed within two (2) years shall be void.

AUTHORITY: sections 333.315, 333.320, 333.325, 333.340, 436.460, and 436.520, RSMo 2016. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010. Rescinded and Readopted: Filed July 6, 2020.

PUBLIC COST: This proposed rule will increase revenue for the State Board of Embalmers and Funeral Directors by four hundred sixty-two thousand eight hundred fifty dollars (\$462,850) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities four hundred sixty-two thousand eight hundred fifty dollars (\$462,850) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Embalmers and Funeral Directors, Lori Hayes, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Commerce and Insurance
Division 2120 - State Board of Embalmers and Funeral Directors
Chapter 3 - Preneed
Proposed Rule 20 CSR 2120-3.105 Filing of Annual Reports

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Revenue	
State Board of Embalmers and Funeral Directors	\$462,850	
	Estimated Increased Revenue Annually for the Life of the Rule	\$462,850

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The estimated revenue is based on the costs reflected in the Private Entity Fiscal Note filed with this amendment.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Commerce and Insurance
Division 2120 - State Board of Embalmers and Funeral Directors
Chapter 3 - Preneed
Proposed Rule 20 CSR 2120-3.105 Filing of Annual Reports

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated costs for the life of the rule by affected entities:
325	Seller Annual Renewal Fee (Fee @ \$150)	\$48,750
325	Seller Annual Report Per Contract Fee (Fee @ \$25) Estimated 15,900 contracts	\$397,500
10	Seller Delinquent Annual Renewal Fee Day 1 to Day 365 (Fee @ \$200)	\$2,000
2	Seller Delinquent Annual Renewal Fee Day 366 to Day 730 (Fee @ \$400)	\$800
10	Provider Delinquent Renewal Fee Day 1 to Day 365 (Fee @ \$100)	\$1,000
3	Provider Delinquent Renewal Fee Day 366 to Day 730 (Fee @ \$200)	\$300
275	Agent Renewal Fee (Fee @ \$40)	\$11,000
10	Agent Delinquent Renewal Fee Day 1 to Day 365 (Fee @ \$50)	\$500
10	Agent Delinquent Renewal Fee Day 366 to Day 730 (Fee @ \$100)	\$1,000
Estimated Cost of Compliance Annually for the Life of the Rule		\$462,850

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on staff estimates.
2. Sellers are also required to pay a per contract fee (currently \$25) for each preneed contract sold during the reporting period; however that is a cost that can be assessed to the consumer by the seller. The number of estimated contracts sold in the state of Missouri is based on the actual number of contracts sold.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

**Division 2120—State Board of Embalmers and Funeral Directors
Chapter 3—Preneed**

PROPOSED RESCISSION

20 CSR 2120-3.115 Contact Information. This rule detailed the requirements for preneed providers, sellers, and agents for providing the board with current contact information.

PURPOSE: The proposed rescission is being filed because the content of this regulation has been rewritten into other regulations as appropriate.

AUTHORITY: sections 333.320, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed July 6, 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 State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

**Division 2120—State Board of Embalmers and Funeral Directors
Chapter 3—Preneed**

PROPOSED RESCISSION

20 CSR 2120-3.120 Display of License. This rule stated that preneed sellers, providers, and preneed agents must prominently display their license or registration to practice issued by the Missouri State Board of Embalmers and Funeral Directors.

PURPOSE: The proposed rescission is being filed because the contents of this regulation has been rewritten into other regulations as appropriate.

AUTHORITY: sections 333.330, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed July 6, 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 State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

**Division 2120—State Board of Embalmers and Funeral Directors
Chapter 3—Preneed**

PROPOSED RESCISSION

20 CSR 2120-3.125 Corporate Ownership of a Licensee. This rule prescribed the requirements regarding corporation applications for a preneed provider or seller's license.

PURPOSE: This proposed rescission is being filed because the content of this regulation has been rewritten into other regulations as appropriate.

AUTHORITY: sections 333.315, 333.320, 333.340, and 436.456, RSMo Supp. 2009. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010. Rescinded: Filed July 6, 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 State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

**Division 2120—State Board of Embalmers and Funeral Directors
Chapter 3—Preneed**

PROPOSED RESCISSION

20 CSR 2120-3.305 Funeral Director Agent Registration. This rule established the reporting requirement for any funeral directors serving as preneed agents.

PURPOSE: The purpose of this rescission is to reduce duplicative regulation. This information is located within 20 CSR 20 2120-3.405.

AUTHORITY: sections 333.325.4, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed July 6, 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 State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.